1-10-92
Vol. 57 No. 7

# Federal Register

Friday
January 10, 1992

**Briefing on How To Use the Federal Register**
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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**FOR:** Any person who uses the Federal Register and Code of Federal Regulations.

**WHO:** The Office of the Federal Register.

**WHAT:** Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

**WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

## WASHINGTON, DC

**WHEN:** January 31, at 9:00 a.m.
**WHERE:** Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
**RESERVATIONS:** 202-523-5240.
**DIRECTIONS:** North on 11th Street from Metro Center to southwest corner of 11th and L Streets

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**Separate Parts In This Issue**



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**Reader Aids**
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

## CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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# Presidential Documents

Title 3—

The President

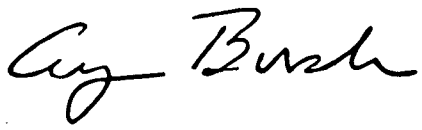
Memorandum of December 27, 1991

## Delegation of Authority With Respect to Certification and Reporting Obligations Regarding Middle East Arms Control

**Memorandum for the Secretary of State**

By the authority vested in me as President by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code, I hereby direct you to undertake on my behalf the certification and reporting obligations under sections 403 and 404 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138). I further direct that you consult with the Secretary of Defense and the heads of other executive departments and agencies as appropriate in the discharge of these obligations.

You are authorized and directed to publish this memorandum in the **Federal Register.**



THE WHITE HOUSE,
*Washington, December 27, 1991.*

[FR Doc. 92–843
Filed 1–8–92; 3:35 pm]
Billing code 3195–01–M

# Presidential Documents

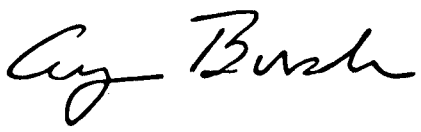
**Presidential Determination No. 92–10 of December 30, 1991**

## Determination Pursuant to Section 545 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, and Applicable Continuing Resolutions

**Memorandum for the Secretary of State**

Pursuant to Section 545 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513), made applicable to FY 1992 by the terms of the Further Continuing Appropriations, Fiscal Year 1992 (Public Law 102–145), I hereby certify that withholding funds to multilateral development banks and other international organizations and programs during FY 1992, pursuant to the limitation contained therein prohibiting the obligation of funds appropriated by that Act to finance indirectly any assistance or reparations to certain specified countries, is contrary to the national interest.

You are authorized and directed to publish this determination in the **Federal Register.**



THE WHITE HOUSE,
*Washington, December 30, 1991.*

[FR Doc. 92–844
Filed 1–8–92; 3:38 pm]
Billing code 3195–01–M

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 982

[FV-91-447IFR]

## Filberts/Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Restricted Percentages for the 1991-92 Marketing Year

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule.

**SUMMARY:** This interim final rule establishes interim and final free and restricted percentages for domestic inshell filberts/hazelnuts for the 1991–92 marketing year under the Federal marketing order for filberts/hazelnuts grown in Oregon and Washington. The percentages indicate the amounts of domestically produced filberts/hazelnuts which may be marketed in domestic, export and other outlets. The percentages are intended to stabilize the supply of domestic inshell filberts/hazelnuts in order to meet the limited domestic demand for such filberts/hazelnuts and provide reasonable returns to producers. This action was recommended by the Filbert/Hazelnut Marketing Board (Board), which is the agency responsible for local administration of the order.

**DATES:** This interim final rule is effective on January 10, 1992. Comments which are received by February 10, 1992, will be considered prior to any finalization of this interim final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2524–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 690–0261.

**SUPPLEMENTARY INFORMATION:** This interim final rule is issued under Marketing Agreement and Order No. 982 [7 CFR part 982], as amended, regulating the handling of filberts/hazelnuts grown in Oregon and Washington. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 25 handlers of filberts/hazelnuts subject to regulation under the filbert/hazelnut marketing order and approximately 1,000 producers in the Oregon and Washington production area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of filberts/hazelnuts may be classified as small entities.

The Board's recommendation and this interim final rule are based on requirements specified in the order. This interim final rule will restrict the amount of inshell filberts/hazelnuts that can be marketed in domestic markets. The domestic outlets for this commodity are characterized by limited demand, and the establishment of interim and final free and restricted percentages will benefit the industry by promoting stronger marketing conditions and stabilizing prices and supplies, thus improving grower returns.

The Board is required to meet prior to September 20 of each marketing year to compute an inshell trade demand and preliminary free and restricted percentages, if the use of volume regulation is recommended during the season. The order prescribes formulas for computing the inshell trade demand, as well as preliminary, interim final, and final percentages. The inshell trade demand establishes the amount of inshell filberts/hazelnuts the market can utilize throughout the season, and the percentages release the inshell trade demand. The preliminary percentages release 80 percent of the inshell trade demand, while the interim and final percentages release 100 percent and 115 percent, respectively, of the inshell trade demand.

The inshell trade demand, rounded to the nearest whole number, equals the average of the preceding three "normal" years' trade acquisitions of inshell filberts/hazelnuts, with the provision that the Board may increase such estimate by no more than 25 percent, if market conditions warrant such an increase.

The preliminary free and restricted percentages make available portions of the filbert/hazelnut crop which may be marketed in domestic inshell markets (free) and exported or shelled (restricted) early in the 1991–92 season. The preliminary free percentage is expressed as a percentage of the total supply subject to regulation and is based on preliminary crop estimates.

At its August 28, 1991, meeting, the Board computed and announced preliminary free and restricted percentages of 12 and 88 percent, respectively, to release 80 percent of the inshell trade demand. The purpose of releasing only 80 percent of the inshell trade demand under the preliminary percentage is to guard against underestimates of the crop. The preliminary restricted percentage is 100

percent minus the free percentage. The majority of domestic inshell filberts/hazelnuts are marketed in October, November, and December. By November, the marketing season is well under way.

On or before November 15, the Board must meet to recommend to the Secretary interim percentages which release 100 percent of the inshell trade demand and final percentages which release an additional 15 percent of the three-year-average trade acquisitions.

The Board uses current crop estimates to calculate the interim final and final percentages. The interim percentages are calculated in the same way as the preliminary percentages and release 100 percent of the inshell trade demand previously computed by the Board for the marketing year. Final free and restricted percentages release an additional 15 percent of the average of the preceding three years' trade acquisitions to ensure an adequate carryover into the following season. The final free and restricted percentages must be effective at least 30 days prior to the end of the marketing year (July 1 through June 30), or earlier, if recommended by the Board and approved by the Secretary. In addition, revisions in the marketing policy can be made until February 15 of each marketing year. However, the inshell trade demand can only be revised upward.

In accordance with order provisions, the Board met on November 14, 1991, reviewed and approved an amended marketing policy and recommended the establishment of interim and final free and restricted percentages of 16 and 84 percent and 19 and 81 percent, respectively. The Board also recommended that the final percentages be effective on May 1, 1992, which is 60 days prior to the end of season. The marketing percentages are based on the industry's final production estimates and release 25,133 tons to the domestic inshell market. The Oregon Agricultural Statistics Service provided an early estimate of 25,300 tons total production for the Oregon and Washington area. However, a handler survey conducted by the Board provided a more current estimate of 25,133 tons total production for the area. Therefore, the Board voted to unanimously accept the more current estimate of 23,133 tons.

The marketing percentages are based on the Board's production estimates and the following supply and demand information for the 1991–92 marketing year:

| Inshell supply | Tons |
|---|---|
| (1) Total production (Filbert/Hazelnut Marketing Board handler survey estimate) | 25,133 |
| (2) Less substandard, farm use (disappearance) | 2,161 |
| (3) Merchantable production (the Board's adjusted crop estimate) | 22,972 |
| (4) Plus undeclared carrying as of July 1, 1992, subject to regulation | 37 |
| (5) Supply subject to regulation (Item 3 plus Item 4) | 23,009 |
| (6) Average trade acquisition based on three prior years' domestic sales | 4,252 |
| (7) Increase to encourage increased sales (10 percent) | 425 |
| (8) Less declared carrying as of July 1, 1992, not subject to regulation | 1,052 |
| (9) Inshell Trade Demand | 3,625 |
| (10) 15 percent of the average trade acquisitions based on three years domestic sales | 638 |
| (11) Inshell Trade Demand plus 15 percent (Item 9 plus Item 10) | 4,263 |

| Percentages | Free | Restricted |
|---|---|---|
| (12) Interim percentages (Item 9 divided by Item 5) × 100 | 16 | 84 |
| (13) Final percentages (Item 11 divided by Item 5) × 100 | 19 | 81 |

In addition to complying with the provisions of the marketing order, the Board also considers the U.S. Department of Agriculture's 1982 "Guideline for Fruit, Vegetable, and Specialty Crop Marketing Orders" (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell filberts/hazelnuts available for sale in domestic markets. The Guidelines require this primary market to have available a quantity equal to 110 percent of recent years' sales in those outlets before secondary market allocations are approved. This is to provide for plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations. In order to meet expected needs of the trade and to comply with the Guidelines, an increase of 10 percent (425 tons) has been included in the calculations used in determining the inshell trade demand. The established interim and final percentages, which release 100 percent and 115 percent, respectively, of the inshell trade demand, will make available 110 percent and 125 percent, respectively, of prior years' sales, thus exceeding the requirements of the Guidelines.

Based on available information, the Administrator of the AMS has determined that the issuance of this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all available information, it is found that the establishment of interim and final free and restricted percentages, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that upon good cause it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The 1991–92 marketing year began July 1, 1991, and the percentages established herein apply to all merchantable filberts/hazelnuts handled from the beginning of the crop year; (2) handlers are aware of this action, which was recommended at an open Board meeting, and need no additional time to comply with these percentages which release more filberts/hazelnuts than the preliminary percentages; and (3) interested persons are provided a 30-day comment period in which to respond. All comments timely received will be considered prior to finalization of this action.

### List of Subjects in 7 CFR Part 982

Filberts/hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 982 is amended as follows:

## PART 982—[AMENDED]

1. The authority citation for 7 CFR part 982 continues to read as follows:

**Authority:** Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

### Subpart—Grade and Size Regulation

2. Section 982.241 is added to read as follows:

[Note: This section will not be published in the annual Code of Federal Regulations.]

**§ 982.241 Final free and restricted percentages—1991–92 marketing year.**

(a) The interim free and restricted percentages for merchantable filberts/hazelnuts for the 1991–92 marketing year shall be 16 and 84 percent, respectively.

(b) The final free and restricted percentages for merchantable filberts/hazelnuts for the 1991–92 marketing year shall be 19 and 81 percent, respectively. These percentages will be effective on May 1, 1992.

Dated: January 6, 1992.

**Robert C. Keeney,**

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 92-646 Filed 1-9-92; 8:45 am]

BILLING CODE 3410-02-M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 91-NM-87-AD; Amendment 39-8121; AD 91-26-08]**

## Airworthiness Directives; Airbus Industrie Models A310 and A300-600 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A310 and A300-600 series airplanes, which requires the installation of three modified Generator Control Units (GCU) with protective covers. This amendment is prompted by reports of internal shorts in the GCU's due to foreign liquid entering the units. The actions specified by this AD are intended to prevent loss of the GCU's and AC electrical power.

**DATES:** Effective February 14, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 14, 1992.

**ADDRESSES:** The service information referenced in this AD may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Greg Holt, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98055-4056; telephone (206) 227-2140; fax (206) 227-1320.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive that is applicable to certain Airbus Industrie Model A310, A320, and A300-600 series airplanes, was published in the **Federal Register** on June 24, 1991 (56 FR 28726). That action proposed to require the installation of three modified Generator Control Units (GCU) with protective covers.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Both commenters requested that Model A320 series airplanes be deleted from the final rule as: (1) The French Direction Générale de l'Aviation Civile (DGAC) airworthiness directive addressing this subject did not include Model A320 series airplanes; (2) the three GCU's on the Model A320 are installed in an area which is not susceptible to fluid leakage and in a different location from that of Model A310 and A300-600 series airplanes; (3) there have been no reported in-service occurrences of water leakage on GCU's installed in Model A320 series airplanes; and (4) Airbus Industrie Service Bulletin A320-24-1050, which the French DGAC did not classify as mandatory, was issued for the purposes of increasing commonality with regard to the installation of GCU's on Model A320 and Model A310/A300-600 series airplanes. Upon further consideration, the FAA concurs with the commenters, and the Model A320 has been deleted from the applicability of the final rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

It is estimated that 67 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate will be $55 per work hour. Required parts will cost appxoximately $333 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $25,996.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

## PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91-26-08. **Airbus Industrie:** Amendment 39-8121. Docket No. 91-NM-87-AD.

*Applicability:* Model A310 and A300-600 series airplanes, on which Modification 7769 has not been accomplished, certificated in any category.

*Compliance:* Required within 180 days after the effective date of this AD, unless accomplished previously.

To prevent loss of the Generator Control Units (GCU) and AC electrical power, accomplish the following:

(a) Remove the three currently installed GCU's and replace them with three modified GCU's having protective covers, in accordance with Airbus Industrie Service Bulletins A310-24-2040, Revision 1, dated January 28, 1991 (for Model A310); A300-24-6029, Revision 1, dated February 22, 1991 (for Model A300-600); and Sundstrand Service Bulletin 735226/740206/740120-24-9 (for Models A310 and A300-600), dated June 15, 1989 (Modification 7769); as applicable.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level or safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Avionics Inspector, who may concur or

comment and then send it to the Manager, Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The installation required by this AD shall be done in accordance with Airbus Industrie Service Bulletin A310-24-2040, Revision 1, dated January 28, 1991 (for Model A310); Airbus Industrie Service Bulletin A300-24-6029, Revision 1, dated February 22, 1991 (for Model A300-600); and Sundstrand Service Bulletin 735226/740206/740120-24-9 (for Models A310 and A300-600), dated June 15, 1989 (Modification 7769). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(e) This amendment (39-8121), AD 91-26-08, becomes effective February 14, 1992.

Issued in Renton, Washington, on December 5, 1991.

James V. Devany,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92-602 Filed 1-9-92; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 39**

**[Docket No. 91-NM-137-AD; Amendment 39-8126; AD 92-01-03]**

## Airworthiness Directives; McDonnell Douglas Model DC-9-80 (MD-80) Series Airplanes and Model MD-88 Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to Model DC-9-80 series airplanes and Model MD-88 airplanes, which currently requires repetitive inspections and functional checks of the tailcone release system for proper operation. This amendment requires replacement or modification of the external tailcone release system cable and handle assemblies. This amendment is prompted by reports of the tailcone failing to drop away when release activation was attempted. This condition, if not corrected, could result in the inability of passengers and crew members to exit through the tail of the airplane during an emergency evacuation.

**DATES:** Effective February 14, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 14, 1992.

**ADDRESSES:** The applicable service information may be obtained from McDonnell Douglas Corporation, Post Office Box 1771, Long Beach, California 90801, ATTN: Business Unit Manager, Technical Publications, Technical Administration Support, C1-L5B(45-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Andrew Gfrerer, Aerospace Engineer, ANM-131L, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California, 90806-2425; telephone (213) 988-5338.

**SUPPLEMENTARY INFORMATION:** A proposal to amend Part 39 of the Federal Aviation Regulations by superseding AD 91-07-06, Amendment 39-6934 (56 FR 11359, March 18, 1991), was published in the **Federal Register** on August 1, 1991 (56 FR 36748). That action proposed to require replacement or modification of the external tailcone release system cable and handle assemblies on McDonnell Douglas Model DC-9-80 series airplanes and Model MD-88 airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supported the proposed AD.

Another commenter pointed out that a conflict exists between McDonnell Douglas Service Bulletin 53-245, Revision 1, dated June 12, 1991, which is referenced in this proposed rule, and McDonnell Douglas Service Bulletin 53-199, Revision 2, dated March 17, 1989, which was referenced in a separate but related notice [Docket 90-NM-97-AD (56 FR 28223, July 10, 1990)]. The conflict between these two service documents relates to the installation of two different designs of handle/support fitting assemblies. The commenter requested that this proposed rule be postponed until this issue is resolved.

The FAA does not concur that postponement is necessary. Initially, a conflict did exist between the two service documents. However, subsequent to the issuance of the notice related to this AD action, the FAA reviewed and approved Revision 3 of McDonnell Douglas Service Bulletin 53-199, dated July 15, 1991, which contains corrected information that eliminates the previous conflict.

One commenter requested that the compliance time for accomplishment of the modification/replacement be extended from the proposed 9 months to 12 months in order to ensure that adequate time is provided for operators to obtain and install necessary parts. The FAA does not concur that an extension of the compliance time is warranted. In developing an appropriate compliance time, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspect of installing the required modifications during operator's normal maintenance schedules. The compliance time, as proposed, represents the maximum interval of time allowable wherein the modification could reasonably be accomplished, parts could be obtained, and an acceptable level of safety could be maintained.

One commenter requested that the FAA postpone any AD action pertaining to the Model DC-9-80 tailcone system until a comprehensive industry/FAA review is held and a consensus program developed. This commenter believes that a certain new McDonnell Douglas proposal may offer a better solution to the tailcone emergency release system problem, and that it would be prudent to postpone any pending AD activity and pursue a total system approach. The FAA disagrees with any postponement to this rule. The intent of this action is to correct a known airworthiness problem, which is a handle that cannot adequately support a sideload. The modification/replacement specified in this final rule will correct this design deficiency and ensure that the tailcone drops when release activation is attempted. Should additional design changes become available in the future, the FAA will review them as to their applicability to this and other issues.

The final rule has been revised to include a note to clarify that, once the required replacement or modification has been accomplished, only certain portions of the continuing repetitive functional tests of the tailcone release system are required to be conducted.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change

described. This change will neither increase the economic burden on any operator nor increase the scope of the rule.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

There are approximately 870 Model DC-9-80 (MD-80) series airplanes and Model MD-88 airplanes of the affected design in the worldwide fleet. It is estimated that 500 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4.5 work hours per airplane to accomplish the required actions, and that the average labor cost will be $55 per work hour. The cost of parts to accomplish the modification is approximately $1,310 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $778,750.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

**PART 39—[AMENDED]**

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by removing Amendment 39-6934 and by adding the following new airworthiness directive:

**92-01-03. McDonnell Douglas:** Amendment 39-8126. Docket 91-NM-137-AD. Supersedes AD 91-07-06, Amendment 39-6934.

*Applicability:* Model DC-9-80 (MD-80) series airplanes and Model MD-88 airplanes, operating in a passenger of passenger/cargo configuration, certificated in any category.

*Compliance:* Required as indicated, unless previously accomplished.

Note: The requirements of this AD become applicable at the time an airplane in an all-cargo configuration is converted to a passenger or passenger/cargo configuration.

To prevent failure of the tailcone release system, accomplish the following:

(a) Prior to 12 months in service since new, or within 90 days after March 26, 1991 (the effective date of AD 91-07-06, Amendment 39-6934), whichever occurs later, accomplish a tailcone release system functional test and inspection in accordance with the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin A53-244, Revision 1, dated February 8, 1991.

(b) Discrepancies in the operation of the tailcone release system found as result of the functional test must be repaired prior to further flight.

(c) Repeat the tailcone release system functional test and inspection required by paragraph (a) of this AD at intervals not to exceed 3,500 flight hours or 18 months, whichever occurs first.

(d) Within 30 days after discovery, report any discrepancies found during the accomplishment of the inspection and functional tests required by paragraph (a) of this AD to the Manager, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Public Law 96-511) and have been assigned OMB Control Number 2120-0056.

(e) Within 9 months after the effective date of this AD, replace or modify the external tailcone release system cable and handle assemblies in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin 53-245, Revision 1, dated June 12, 1991. Accomplishment of such replacement or modification constitutes terminating action for the repetitive inspection of the exterior tailcone release handle for cracks, as required by paragraph (c) of this AD. However, the repetitive functional tests and inspections of the tailcone release system required by paragraph (c) of this AD must continue to be accomplished.

Note: The following portions of the continuing repetitive functional tests and inspections of the tailcone release system are not necessary to accomplish once the replacement/modification of the cable and handle assembly is completed: Those procedures specified in Paragraph Q. and the second paragraph of the Notes of Paragraph O., of the Accomplishment Instructions of McDonnel Douglas Alert Service Bulletin A53-244, Revision 1, dated February 8, 1991.

(f) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO).

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles ACO.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(h) The functional test and inspection requirements of this AD shall be accomplished in accordance with McDonnell Douglas Alert Service Bulletin A53-244, Revision 1, dated February 8, 1991. The replacement or modification requirements shall be accomplished in accordance with McDonnell Douglas Service Bulletin 53-245, Revision 1, dated June 12, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, Post Office Box 1771, Long Beach, California 90801, ATTN: Business Unit Manager, Technical Publications, Technical Administration Support, C1-L5B(45-60). Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue S.W., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(i) This amendment (39-8126), AD 92-01-03, becomes effective February 14, 1992.

Issued in Renton, Washington, on December 16, 1991.

Leroy A. Keith,

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92-603 Filed 1-9-92; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 97**

**[Docket No. 26724; Amdt. No. 1472]**

## Standard Instrument Approach Procedures; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain

airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

*For Examination—*

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

*For Purchase—*

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

*By Subscription—*

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

**SUPPLEMENTARY INFORMATION:** This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents in unnecessary. The provisions of this amendment state the affected CFR and (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impractical, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 97**

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC on December 20, 1991.

**Thomas C. Accardi,**

*Director, Flight Standards Service.*

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 u.t.c. on the dates specified, as follows:

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

**Authority:** 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

**§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]**

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

NFDC TRANSMITTAL LETTER

| Effective | State | City | Airport | FDC No. | SIAP |
|---|---|---|---|---|---|
| 10/10/91 | FL | Pensacola | Pensacola Regional | FDC 1/4998 | NDB Rwy 34 Amdt 15. |
| 10/10/91 | FL | Pensacola | Pensacola Regional | FDC 1/4999 | ILS Rwy 16 Amdt 13. |
| 10/10/91 | FL | Pensacola | Pensacola Regional | FDC 1/5000 | NDB Rwy 16 Orig. |
| 12/04/91 | MN | Eveleth | Eveleth-Virginia Muni | FDC 1/6164 | VOR/DME RNAV Rwy 27 Amdt 1. |
| 12/06/91 | CT | Windsor Locks | Bradley Intl | FDC 1/6124 | ILS Rwy 6 Amdt 29. |
| 12/06/91 | MD | Ocean City | Ocean City Muni | FDC 1/6084 | LOC Rwy 14 Orig. |
| 12/06/91 | MN | International Falls | Falls Intl | FDC 1/6112 | VOR/DME or TACAN Rwy 31 Amdt 3. |
| 12/06/91 | MN | International Falls | Falls Intl | FDC 1/6113 | LOC BC Rwy 13 Amdt 8. |
| 12/06/91 | MN | International Falls | Falls Intl | FDC 1/6114 | VOR Rwy 31 Amdt 14. |
| 12/06/91 | MN | International Falls | Falls Intl | FDC 1/6115 | VOR Rwy 13 Amdt 12. |
| 12/06/91 | MN | International Falls | Falls Intl | FDC 1/6116 | NDB Rwy 31 Amdt 7. |
| 12/06/91 | MN | International Falls | Falls Intl | FDC 1/6120 | ILS Rwy 31 Amdt 7. |
| 12/09/91 | NY | Syracuse | Syracuse-Hancock Intl | FDC 1/6155 | HI-ILS Rwy 28 Amdt 2. |
| 12/16/91 | NY | New York | La Guardia | FDC 1/6248 | ILS/DME Rwy 13 Amdt 2. |
| 12/16/91 | NY | New York | La Guardia | FDC 1/6256 | ILS Rwy 4 Amdt 34. |
| 12/16/91 | TX | Waco | Waco Regional | FDC 1/6295 | ILS Rwy 19 Amdt 13. |
| 12/17/91 | TN | Humboldt | Humboldt Muni | FDC 1/6320 | VOR/DME-A Amdt 4. |

NFDC Transmittal Letter Attachment

Windsor Locks

Bradley Intl, Connecticut, ILS RWY 6 AMDT 29 * * *, Effective: 12/06/91.

FDC 1/6124/BDL/FI/P Bradley Intl, Windsor Locks, CT. ILS RWY 6 AMDT 29 * * * S-ILS 6 CAT D RVR 1800. This is AMDT 29A.

Pensacola

Pensacola Regional, Florida, NDB RWY 34 AMDT 15 * * *, Effective: 10/10/91.

FDC 1/4998/PNS/FI/P Pensacola Regional Pensacola, FL. NDB RWY 34 AMDT 15 * * * min alt PKZ NDB 800. FAF to MAP 1.7 NM. MSA from PKZ NDB 000-270 1800, 270-360 2900. Change all references to RWY 16-34 to RWY 17-35. Proc turn outbound min alt 1600. This becomes NDB RWY 35 AMDT 15A.

Pensacola

Pensacola Regional, Florida, ILS RWY 16 AMDT 13 * * *, Effective: 10/10/91.

FDC 1/4999/PNS/FI/P Pensacola Regional, Pensacola, FL ILS RWY 16 AMDT 13 * * * alt Mins NA when Pensacola Tower CLSD. MSA from NUN VOR 040-280 1800, 280-040 2900. Change all references to RWY 16-34 to RWY 17-35. This becomes ILS RWY 17, AMDT 13A.

Pensacola

Pensacola Regional, Florida, NDB RWY 16 ORIG * * *, Effective: 10/10/91.

FDC 1/5000/PNS/FI/P Pensacola Regional, Pensacola, FL. NDB RWY 16 ORIG * * * MSA from PKZ NDB 000-270 1800, 270-360 2900. Change all references to RWY 16-34 to RWY 17-35. This becomes NDB RWY 17, ORIG A.

Ocean City

Ocean City Muni, Maryland, LOC RWY 14 ORIG * * *, Effective: 12/06/91.

FDC 1/6084/N80/FI/P Ocean City MUNI, Ocean City, MD. LOC RWY 14 ORIG * * * Salisbury ALSTG mins * * * S-14 CAT D MDA 760, CIRC CAT D HAA 768. This becomes LOC RWY 14 AMDT 1.

International Falls

Falls Intl, Minnesota, VOR/DME or TACAN RWY 31 AMDT 3 * * *, Effective: 12/06/91.

FDC 1/6112/INL/FI/P Falls Intl, International Falls, MN. VOR/DME or TACAN RWY 31 AMDT 3 * * * Delete note, "Contact HIB FSS 123.6 for MALSR RWY 31." Activate HIRL RWY 13-31 and REIL RWY 13-122.8.

International Falls

Falls Intl, Minnesota, LOC BC RWY 13 AMDT 8 * * *, Effective: 12/06/91.

FDC 1/6113/INL/FI/P Falls Intl, International Falls, MN. LOC BC RWY 13 AMDT 8 * * * Delete Note, "Contact HIB FSS 123.6 for MALSR RWY 31." This is LOC BC RWY 13 AMDT 8A.

International Falls

Falls Intl, Minnesota, VOR RWY 31 AMDT 14 * * *, Effective: 12/06/91.

FDC 1/6114/INL/FI/P Falls Intl, International Falls, MN. VOR RWY 31 AMDT 14 * * * Delete notes, "Contact HIB FSS 123.6 for MALSR RWY 31. Activate HIRL RWY 13-31 and REIL RWY 13-122.8." This is VOR RWY 13 AMDT 14A.

International Falls

Falls Intl, Minnesota, VOR RWY 13 AMDT 12 * * *, Effective: 12/06/91.

FDC 1/6115/INL/ FL/P Falls Intl, International Falls, MN. VOR RWY 13 AMDT 12 * * * Delete note, "Contact HIB FSS 123.6 for MALSR RWY 31." This is VOR RWY 13 AMDT 12A.

International Falls

Falls Intl, Minnesota, NDB RWY 31 AMDT 7 * * *, Effective: 12/06/91.

FDC 1/6116/INL/ FL/P Falls Intl, International Falls, MN. NDB RWY 31 AMDT 7 * * * Delete notes, "Contact HIB FSS 123.6 for MALSR RWY 31. Activate HIRL RWY 13-31 And REIL RWY 13-122.8" Add * * * alternative minimums NA. This is NDB RWY 31 AMDT 7A.

International Falls

Falls Intl, Minnesota, ILS RWY 31 AMDT 7 * * *, Effective: 12/06/91.

FDC 1/6120/INL/ FL/P Falls Intl, International Falls, MN. ILS RWY 31 AMDT 7 * * * Delete notes, "Contact HIB FSS 123.6 for MALSR RWY 31. Activate HIRL RWY 13-31 And REIL RWY 13-122.8" This is ILS RWY 31 AMDT 7A.

Eveleth

Eveleth-Virginia Muni, Minnesota, VOR/DME RNAV RWY 27 AMDT 1 * * *, Effective: 12/04/91.

FDC 1/6164/EVM/ FI/P Eveleth-Virginia, Muni, Eveleth, MN. VOR/DME RNAV RWY 27 AMDT 1 * * * S-27 MDA 1900/HAT 531 ALL CATS; VIS CATS A/B 1, CAT C 1-½, CAT, D 1-¾. CIRCLING MDA/HAA CATS A/B 1920/536, CAT C 1940/558, CAT D 1980/598; VIS CATS A/B 1, CAT C 1-½, CAT D 2. This is VOR/DME RNAV RWY 27 ADMT 1A.

Syracuse

Syracuse-Hancock Intl, New York, HI-ILS RWY 28 AMDT 2 * * *, Effective: 12/09/91.

FDC 1/6155/SYR/ FI/P Syracuse-Hancock Intl., Syracuse, NY. HI-ILS RWY 28 AMDT 2 * * * S-ILS-28 DH/HAT 662/250 ALL CATS. VIS/RVR CATS A/B/C 2400, D 4000. MSA SY LOM 3700. This becomes HI-ILS RWY 28 AMDT 2A.

New York

La Guardia, New York, ILS/DME RWY 13 AMDT 2 * * *, Effective: 12/16/91.

FDC 1/6248/LGA, FI/P La Guardia, New York, NY. ILS/DME RWY 13 AMDT 2 * * * Add Note * * * G/S unusable below 200 feet. This becomes ILS/DME RWY 13 AMDT 2A.

New York

La Guardia, New York, ILS RWY 4 AMDT 34 * * *, Effective: 12/16/91.

FDC 1/6256/LGA, FI/P La Guardia, New York, NY. ILS RWY 4 AMDT 34 * * * Add Note * * * S-ILS-4 DH not increased for INOP MM. This becomes ILS RWY 4 AMDT 34A.

Humboldt

Humboldt Muni, Tennessee, VOR/DME-A AMDT 4 * * *, Effective: 12/17/91.

FDC 1/6320/M52/ FI/P Humboldt Muni, Humboldt, TN. VOR/DME-A AMDT 4 * * * Increase MSA to 2500 FT. This becomes VOR/DME-A AMDT 4A.

Waco

Waco Regional, Texas, ILS RWY 19 AMDT 13 * * *, Effective: 12/16/91.

FDC 1/6295/ACT/ FI/P Waco Regional, Waco, TX. ILS RWY 19 AMDT 13 * * * Change terminal RTE BOSEL to COFFI LOM/I-ACT 5.7 DME course and distance 359/15.9. Add note * * * Increase CAT D S-LOC-19 VIS ¼ mile for inoperative MALSR. This becomes AMDT 13A.

[FR Doc. 92-600 Filed 1-9-92; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 97**

**[Docket No. 26723; Amdt. No. 1471]**

## Standard Instrument Approach Procedures: Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**EFFECTIVE DATES:** An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

**ADDRESSES:** Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

**SUPPLEMENTARY INFORMATION:** This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The Provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

### The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments require making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

### Conclusion

The FAA has determined that this regulation only involves an established

body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 97**

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC on December 20, 1991.

**Thomas C. Accardi,**

*Director, Flight Standards Service.*

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 u.t.c. on the dates specified, as follows:

## Part 97—Standard Instrument Approach Procedures

1. The authority citation for part 97 continues to read as follows:

**Authority:** 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

**§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended].**

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

*Effective March 5, 1992*

Hooper Bay, AK—Hooper Bay, VOR RWY 31, Amdt. 1 Hooper Bay, AK—Hooper Bay, VOR/DME RWY 31, Orig., Cancelled
Laurel, DE—Laurel Airport, VOR/DME RWY 32, Orig.
Winder, GA—Winder, VOR/DME RNAV RWY 23, Orig.
Louisville, KY—Bowman Field, VOR RWY 1, Amdt. 3
Louisville, KY—Bowman Field, VOR RWY 14, Amdt. 8
Louisville, KY—Bowman Field, VOR RWY 19, Amdt. 4
Louisville, KY—Bowman Field, VOR RWY 24, Amdt. 4
Louisville, KY—Bowman Field, VOR RWY 32, Amdt. 13
Louisville, KY—Bowman Field, NDB RWY 32, Amdt. 13
Paducah, KY—Barkley Regional, VOR RWY 4, Amdt. 15
Paducah, KY—Barkley Regional, VOR/DME RWY 22, Amdt. 4
Paducah, KY—Barkley Regional, NDB RWY 22, Amdt. 2
Paducah, KY—Barkley Regional, ILS RWY 4, Amdt. 7
Bogalusa, LA—George R Carr Memorial Air Fld., VOR/DME-A, Amdt. 4
Bogalusa, LA—George R Carr Memorial Air Fld., LOC RWY 18, Amdt. 1
Bogalusa, LA—George R Carr Memorial Air Fld., NDB RWY 18, Amdt. 3
Grand Isle, LA—Grand Isle Seaplane Base, VOR-A, Amdt. 7
Grand Isle, LA—Grand Isle Seaplane Base, VOR/DME-C, Amdt. 6
Grand Isle, LA—Grand Isle Seaplane Base, NDB-B, Amdt. 8
Port Sulphur, LA—Port Sulphur Seaplane Base, VOR/DME-A, Amdt. 5
Port Sulphur, LA—Port Sulphur Seaplane Base, VOR/DME-B, Amdt. 4
Sanford, ME—Sanford Muni, NDB RWY 7, Orig.
Grand Rapids, MI—Kent County Intl, VOR RWY 18, Amdt. 6
Grand Rapids, MI—Kent County Intl, VOR RWY 36, Amdt. 11
Grand Rapids, MI—Kent County Intl, NDB RWY 26L, Amdt. 18
Grand Rapids, MI—Kent County Intl, ILS RWY 8R, Amdt. 3
Grand Rapids, MI—Kent County Intl, ILS RWY 26L, Amdt. 18
Grand Rapids, MI—Kent County Intl, RADAR-1, Amdt. 9
Maryville, MO—Maryville MEML, VOR/DME RW 36, Amdt. 4
Kennett, MO—Kennett Memorial, VOR RWY 36, Amdt. 5
Kennett, MO—Kennett Memorial, NDB RWY 18, Amdt. 2
Lee's Summit, MO—Lee's Summit Municipal, VOR-B, Amdt. 2
St. Louis, MO—Arrowhead, VOR RWY 2, Amdt. 4
St. Louis, MO—Arrowhead, VOR-B, Amdt. 2
Sikeston, MO—Sikeston Memorial Muni, VOR/DME RWY 2, Orig.
Newburgh, NY—Stewart Intl, NDB RWY 9, Amdt. 7
Newburgh, NY—Stewart Intl, ILS RWY 9, Amdt. 6
Medina, OH—Medina Muni, NDB RWY 27, Amdt. 7
Piqua, OH—Piqua, VOR-A, Amdt. 11
Piqua, OH—Piqua, VOR RWY 26, Amdt. 4
Piqua, OH—Piqua, VOR/DME RNAV RWY 26, Amdt. 5
Maryville, MO—Maryville MEML, NDB RWY 14, Amdt. 3
Belle Fourche, SD—Belle Fourche Muni, NDB RWY 32, Orig.
Tooele, UT—Bolinder Field-Tooele Valley, NDB RWY 6, Orig., Cancelled
Danville, VA—Danville Regional VOR RWY 2, Amdt. 12
Danville, VA—Danville Regional, VOR RWY 24, Amdt. 9
Staunton/Waynesboro/Harrisonburg, VA—Shenandoah Valley Regional, ILS RWY 5, Amdt. 8
Huntington, WV—Tri-State/Milton J. Ferguson Field, NDB RWY 12, Amdt. 16
Huntington, WV—Tri-State/Milton J. Ferguson Field, ILS RWY 12, Amdt. 9
Huntington, WV—Tri-State/Milton J. Ferguson Field, ILS RWY 30, Amdt. 3
Rice Lake, WI—Rice Lake Muni, VOR RWY 18, Amdt. 1
Rice Lake, WI—Rice Lake Muni, VOR RWY 36, Amdt. 1
Rice Lake, WI—Rice Lake Muni, NDB RWY 36, Amdt. 7

*Effective February 6, 1992*

Indianapolis, IN—Greenwood Muni, VOR-A, Amdt. 3
Indianapolis, IN—Greenwood Muni, NDB RWY 36, Amdt. 1
Eliot, ME—Littlebrook Air Park, RADAR-1, Amdt. 2
Bedford, MA—Laurence G Hanscom Fld., NDB RWY 29, Amdt. 5
Kansas City, MO—Richards-Gebaur, ILS 1 RWY 36, Amdt. 3
Kansas City, MO—Richards-Gebaur, ILS 2 RWY 36, Orig.
Keene, NH—Dillant-Hopkins, VOR RWY 2, Amdt. 10
Bowman, ND—Bowman Muni, NDB RWY 29, Amdt. 2

*Effective January 9, 1992*

Scottsdale, AZ—Scottsdale Muni, VOR-A, Amdt. 5, Cancelled
Scottsdale, AZ—Scottsdale Muni, VOR-A, Orig.
Chicago (West Chicago), IL—Du Page, VOR RWY 1L, Orig.
Chicago (West Chicago), IL—Du Page, ILS RWY 1L, Orig.
Abbeville, LA—Abbeville Municipal, VOR/DME-A, Amdt. 4, Cancelled
Abbeville, LA—Abbeville Municipal, VOR/DME-B, Amdt. 1, Cancelled
Abbeville, LA—Abbeville Municipal, VOR/DME-A, Orig.

Abbeville, LA—Abbeville Municipal, VOR/DME-B, Orig.
Eunice, LA—Eunice, VOR/DME-A, Amdt. 4, Cancelled
Eunice, LA—Eunice, VOR/DME-A, Orig.
Lafayette, LA—Lafayette Regional, VOR RWY 4R, Orig.
Lafayette, LA—Lafayette Regional, VOR/DME RWY 11, Orig.
Lafayette, LA—Lafayette Regional, NDB RWY 10, Amdt. 3, Cancelled
Lafayette, LA—Lafayette Regional, NDB RWY 22L, Amdt. 4
Lafayette, LA—Lafayette Regional, NDB RWY 28, Amdt. 6, Cancelled
Lafayette, LA—Lafayette Regional, ILS RWY 22L, Amdt. 4
Lafayette, LA—Lafayette Regional, RADAR-1, Amdt. 8
Lafayette, LA—Lafayette Regional, RNAV RWY 3R, Amdt. 3, Cancelled
Lafayette, LA—Lafayette Regional, RNAV RWY 10, Amdt. 2, Cancelled
New Iberia, LA—Acadiana Regional, VOR RWY 16, Amdt. 8, Cancelled
New Iberia, LA—Acadiana Regional, VOR/DME OR TACAN RWY 16, Orig.
New Iberia, LA—Acadiana Regional, VOR/DME RWY 34, Amdt. 5, Cancelled
New Iberia, LA—Acadiana Regional, VOR/DME RWY 34, Orig.
New Iberia, LA—Acadiana Regional, LOC RWY 34, Amdt. 7
New Iberia, LA—Acadiana Regional, NDB RWY 16, Amdt. 1, Cancelled
New Iberia, LA—Acadiana Regional, NDB RWY 34, Amdt. 7
Opelousas, LA—St Landry Parish-Ahart Field, VOR/DME RWY 35, Orig., Cancelled
Opelousas, LA—St Landry Parish-Ahart Field, VOR/DME RWY 35, Orig.
Opelousas, LA—St Landry Parish-Ahart Field, NDB RWY 17, Amdt. 1
Patterson, LA—Harry P Williams Memorial, VOR/DME-A, Amdt. 8
Patterson, LA—Harry P Williams Memorial, LOC/DME RWY 23, Amdt. 2
Patterson, LA—Harry P Williams Memorial, NDB RWY 5, Amdt. 8

*Effective December 12, 1991*

Columbia, SC—Columbia Metropolitan, RADAR-1, Amdt. 9

[FR Doc. 92-601 Filed 1-8-92; 8:45 am]
BILLING CODE 4910-13-M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 240

**[Release No. 34-30146; File No. S7-27-91]**

**RIN 3235-AE19**

### Acceptance of Signature Guarantees From Eligible Guarantor Institutions

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rulemaking.

**SUMMARY:** The Securities and Exchange Commission today is adopting new Rule 17Ad-15 (17 CFR 240.17Ad-15) under the Securities Exchange Act of 1934 designed to: Provide for the protection of investors; facilitate the equitable treatment of financial institutions which guarantee signatures of endorsers of securities; increase the efficiency of the security transfer process; and, reduce the risk associated with a signature guarantor's inability to meet its obligations. The rule will: (1) Prohibit inequitable treatment of eligible guarantor institutions, (2) require transfer agents to establish written standards for the acceptance of signature guarantees, and (3) enable transfer agents to reject a request for transfer because the guarantor is neither a member of nor a participant in a signature guarantee program. The rule implements section 17A(d)(5) of the Act, as amended by section 206 of the securities Enforcement Remedies and Penny Stock Reform Act of 1990 ("Enforcement Act"). Section 206 of the Enforcement Act clarifies the Commission's rulemaking authority to implement rules to facilitate the equitable treatment of financial institutions which issue signature guarantees.

**EFFECTIVE DATE:** February 24, 1992.

**FOR FURTHER INFORMATION CONTACT:** Anthony Bosch, Attorney, Branch of Transfer Agent Regulation, at 202/272-2775, Division of Market Regulation, Securities and Exchange Commission, Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission ("Commission") is adopting new Rule 17Ad-15 (17 CFR 240.17Ad-15) under the Securities Exchange Act of 1934 ("Exchange Act") that amends title 17 of chapter II, part 240 of the Code of Federal Regulations. The rule requires, among other things, that registered transfer agents treat all financial institutions in the acceptance of signature guarantees on an equitable basis. The rule implements section 17A(d)(5) of the Exchange Act, as amended by section 206 of the Securities Enforcement Remedies and Penny Stock Reform Act of 1990 ("Enforcement Act").[1]

#### I. Introduction and Summary

In Securities Exchange Act Release No. 29663 ("Proposing Release"),[2] the Commission published for comment Rule 17Ad-15 pursuant to section 17A(d)(5) of the Exchange Act to implement section 206 of the Enforcement Act. The rule is designed to facilitate the equitable treatment of financial institutions which issue signature guarantees and other guarantees related to the transfer of securities. In general, the rule prohibits inequitable treatment of eligible guarantor institutions and requires transfer agents to establish written standards for the acceptance of signature guarantees.

A total of eighty commentators provided comments relating to the proposed rule.[3] Forty-three commentators favored the proposed rule (twenty-three of whom provided additional comments on specific sections of the proposed rule). Additionally, twenty-five commentators offered observations or suggestions without explicitly supporting the proposed rule. Twelve commentators objected to the proposed rule. The views of the commentators are discussed in detail below.

The Commission has modified Rule 17Ad-15 to account for many commentator suggestions and concerns. The Commission has rejected some suggestions offered by commentators and these are also discussed below. Finally, for the reasons discussed in the Proposing Release and below the Commission is adopting Rule 17Ad-15 as revised.

#### II. List of Commentators

The following commentators submitted comments relating to Rule 17Ad-15.

*Federal Regulatory Authorities*

National Credit Union Administration ("NCUA")
Office of Thrift Supervision ("OTS")

*Self-Regulatory Organizations*

The Depository Trust Company ("DTC")

[1] 15 U.S.C. 78q-9(d)(5) as amended by Pub. L. No. 101-429, Section 206, 104 Stat. 941 (1990).

[2] Securities Exchange Act Release No. 29663 (September 9, 1991), 56 FR 46748.

[3] A summary of these comments has been prepared and a copy of the summary has been placed in the public file.

*Industry Organizations*

Alaska Credit Union League ("Alaska League")
American Bankers Association, Trust and Securities ("ABA")
Corporate Transfer Agents Association ("CTAA")
Credit Union National Association, Inc. ("CUNA")
Hawaii Credit Union League ("Hawaii League")
Indiana Credit Union League ("Indiana League")
Investment Company Institute ("ICI")
National Association of Federal Credit Unions ("NAFCU")
New Jersey Savings League ("New Jersey League")
New York League of Savings Institutions ("New York League")
North Carolina Alliance Community Financial Institutions ("Alliance")
Securities Industry Association ("SIA")
Texas Credit Union League and Affiliates ("TCUL")
The Cashiers Association of Wall Street, Inc. ("Cashiers")
The Midwest Securities Transfer Association, Inc. ("MWSTA")
The Securities Transfer Association, Inc. ("STA")
The Southwest Securities Transfer Association, Inc. ("SWSTA")
United States League of Savings Institutions ("U.S. League")
Western Securities Transfer Association, Inc. ("WSTA")

*Credits Unions*

AEDC Federal Credit Union
Educational Employees Credit Union
First Educators Credit Union
Homestead Air Force Base Federal Credit Union
Honolulu City & County Employees Federal Credit Union
IBM Endicott/Owego Employees Federal Credit Union
Langley Federal Credit Union ("Langley")
Long Beach School Employees Federal Credit Union
Melrose Credit Union
Navy Federal Credit Union
NBC Employees Federal Credit Union
Orange County Federal Credit Union
Pacific IBM Federal Credit Union (submitted two comment letters)
Pentagon Federal Credit Union
Professional Federal Credit Union
San Antonio Teachers Credit Union
TRW Systems Federal Credit Union ("TRW")
United BN Credit Union
Wisconsin Corporate Central Credit Union

*Banks, Savings Banks, and Savings and Loan Associations*

Badger Bank S.S.B.
Family Bank of Hallandale
Fiduciary Trust Company International ("FTC")
Harbor Federal
Household Bank
First Northern Savings Bank (submitted two comment letters)
Loyola Federal Savings and Loan Association
Marshfield Savings Bank, S.A.
Roma Federal Savings Bank
Sharon Savings Bank
The First, F.A.
Virginia First Savings Bank

*Transfer Agents and Corporations*

AmeriCorp Securities Services, Inc. ("Ameritrust")
CILCORP
DQE
First Chicago Trust Company of New York ("First Chicago")
Gulf States Utilities Company ("Gulf States")
Harris Trust and Savings Bank ("Harris Bank")
Manufacturers Hanover
Mellon Financial Services ("Mellon")
Meridian Point
Otter Tail Power Company ("Otter Tail")
Registrar and Transfer Company ("Registrar and Transfer")
The Procter & Gamble Company ("Procter & Gamble")
T. Rowe Price Associates, Inc. ("T. Rowe Price")
Union Electric
United States Trust Company of New York ("U.S. Trust")
USX Corporation ("USX")
Washington Water Power
Wisconsin Energy Corporation ("Wisconsin Energy")
WPL Holdings, Inc. ("WPL Holdings")

*Brokers and Dealers*

Bear, Stearns & Co., Inc. ("Bear Stearns")
Merrill Lynch ("Merrill")
Shearson Lehman Brothers ("Shearson")
Smith Barney Harris Upham & Co., Inc. ("Smith Barney")

*Lawyers, Law Firms, and Professors*

Professors Egon Guttman, Washington College of Law, The American University ("Professor Guttman")

*Insurance Companies*

CUNA Mutual Insurance Group, CUMIS Insurance Society, Inc. ("CUNA Mutual")

*Other*

Financial Data Resources, Inc. ("FDR")
Kemark Financial Services, Inc. ("Kemark")

**III. Basis and Purpose**

The Proposing Release set forth three reasons why adoption of Rule 17Ad–15 might be viewed as necessary or appropriate. First, Rule 17Ad–15 would facilitate the equitable treatment of signature guarantors. Second, it would improve the signature guarantee process. Third, it would carry out the Congressional expectation, implicit in the grant of rulemaking authority, that the Commission adopt rules prohibiting, among other things, disparate treatment of various financial institutions in the acceptance of signature guarantees.[4]

A substantial majority of the commentators expressed support for the proposed rule. The supporting commentator noted their approval of the proposed rule's requirement that registered securities transfer agents treat all financial institutions that guarantee signatures on an equitable basis. For example, OTS stated that transfer agents have not treated thrifts on an equitable basis with commercial banks and other financial institutions as signature guarantors and the proposed rule should "level the playing field" for various financial institutions. CUNA stated its support for the proposed rule and noted that "many years of effort of trying to achieve a self-regulatory solution proved fruitless." CUNA commented that many credit unions must still send their members "down the street" to a commercial bank or broker to guarantee the signature on securities, a service credit unions want to provide in order to "serve as a full service financial institution."

Many commentators expressed concern about the costs they will incur as a result of adoption of the proposed rule either in their capacity as transfer agents or signature guarantors. Commentators representing organizations whose signature guarantees generally are now accepted urged that the way they currently guarantee signatures and related expenses should remain the same. These commentators also opposed any action that would result in such change,[5] and

[4] See Proposing Release, *supra* note 2, 56 FR at 46748.

[5] But see letter from ABA. The ABA commented that it has no objection to the intent of the proposed rule to ensure the equitable treatment of guarantor institutions.

even suggested that the matter required further study.[6] Commentators representing organizations whose signature guarantees are not generally accepted by transfer agents overwhelmingly supported the proposed rule. These commentators expressed concerns, however, that the cost of getting authorization cards to transfer agents and of implementing system changes necessary to accommodate a larger universe of guarantors not fall exclusively on them.

Transfer agents commented that the cost of the proposed rule, including the cost to assess the creditworthiness of an expanded universe of guarantor institutions, would outweigh the benefits.[7] Commentators representing transfer agents also objected to the proposed rule because it would force them to accept guarantees from a larger universe of guarantors without, at the same time, clearly allowing them to establish efficient authorization card systems for all guarantors. These commentators objected to the proposed rule but stated their support for either a transfer agent or Commission mandated signature guarantee program.[8]

As explained in the Proposing Release and below, accepting signature guarantees requires transfer agents to make credit decisions on the responsibility of the guarantor institution. Thus, transfer agents must be given flexibility in exercising credit judgments as to whether guarantors are responsible, provided those credit judgments are reasonable. In addition, transfer agents' written standards, with respect to responsibility, cannot be manifestly unreasonable. This is the standard set forth in state commercial laws and this is the standard the Commission is seeking to adopt and enforce.

The Commission is rejecting commentator suggestions that the Commission defer adoption of the proposed rule pending further study. More than seven years ago the Commission advised transfer agents that relying solely on the type of institution in determining whether or not to accept that institution's signature guarantee is inconsistent with appropriate state commercial law. For the past seven years, the Commission sought, to no avail, to resolve this matter through study and discussion with banking, brokerage and other interested industry representatives.[9]

The Commission believes that the rule achieves the appropriate balance between facilitating the equitable treatment of guarantor institutions and the need for a transfer agent to protect itself from risks associated with the acceptance of signature guarantees. Rule 17Ad–15 requires reasonable credit decisions, prohibits inequitable treatment of guarantor institutions, and provides a framework for the timely flow of necessary information between guarantors, transfer agents and presentors about transfer agent acceptance standards and rejections. Additionally, Rule 17Ad–15 provides a basis for more effective control by each transfer agent of its credit decisions and its signature guarantee procedures. The Commission will continue to take an active role in monitoring the signature guarantee process, enforcing Rule 17Ad–15, and will take further action, if necessary, to address inequities or other problems that may arise.

## IV. Rule 17Ad–15(a): Definitions

Rule 17Ad–15(a) defines certain terms used in the rule, such as "eligible guarantor institutions" and "signature guarantee." Commentators addressed only a few of the proposed defined terms in the rule, including "eligible guarantor institution" and "guarantee." Accordingly, these terms are discussed below. Other defined terms that were not addressed by the commentators have not been revised and are being adopted as proposed.

### *A. Definition of Eligible Guarantor Institution*

Rule 17Ad–15(a)(2) as adopted defines "eligible guarantor institutions" to include banks, brokers, dealers, municipal securities dealers, municipal securities brokers, government securities dealers, government securities brokers, credit unions, national securities exchanges, registered securities associations, clearing agencies and savings associations. The rule defines the eligible guarantor institutions that would be protected by the rule. The rule has been adopted substantively as proposed, except with a modification to the term "credit union" as that term relates to the definition of "eligible guarantor institution."

As proposed, rule 17Ad–15(a)(2)(iii) would have defined as eligible guarantor institutions credit unions that are "insured credit unions" as that term is defined in section 101(7) of the Federal Credit Union Act [12 U.S.C. 1752(7)]. This would include all federally insured credit unions—in essence, all federally chartered credit unions as well as most state chartered credit unions. The Commission's intent in using this definition was to include all guarantor institutions authorized to provide signature guarantee services.

Eleven commentators addressed the proposed definition of eligible guarantor institution.[10] Five commentators requested that the definition of "eligible guarantor institution" be amended to include privately insured credit unions as well as federally insured credit unions.[11] For example, CUNA urged the Commission to expand the definition of "eligible guarantor institution" to include credit unions that are not federally insured. CUNA noted that approximately 800 credit unions in the United States today are not federally insured, but rather are privately insured by companies chartered under state law. CUNA requests a broader definition of eligible guarantor institution to include credit unions as defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act [12 U.S.C. 461(b)]. CUNA also noted that the authority of state chartered credit unions to provide guarantees will be a question of state law and regulatory interpretation. Although there exists no across-the-board ruling that can be cited for state chartered credit

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[6] See letter from SIA. The SIA commented that the proposed rule be studied by the Securities and Exchange Commission's Market Transactions Advisory Committee.

[7] For example, USX stated that the Commission "seriously understates the cost to transfer agents of compliance with the proposed rule" and "leaps to the conclusion that 'the benefits of proposed [R]ule 17Ad–15 would outweigh the costs incurred by transfer agents in complying with the proposed rule.' "

Proctor & Gamble stated that the proposed rule would increase costs without meaningfully improving the signature guarantee process and that transfer agents would be unable to closely monitor the expanded universe of guarantor institutions.

[8] For example, STA stated that it "strongly believes that the Commission's goals of ensuring the equitable treatment of eligible guarantor institutions and providing a more efficient security transfer process cannot be met unless the Commission requires guarantor participation in a particular signature guarantee program or permits transfer agents to accept guarantees only from guarantors participating in an acceptable program." The STA indicated that it stands ready to cooperate with the Commission in connection with the further development of proposed Rule 17Ad–15. Nevertheless, the STA stated that except for "the attention which the Rule pays to signature guarantee programs, the STA regards the proposed rule as essentially misguided."

[9] See Proposing Release, Securities Exchange Act Release No. 29663, *supra* note 2, 56 FR at 46749–50.

[10] FDR, CTAA, CUNA, Educational Employees Credit Union, Indiana League, NAFCU, NCUA, Navy Federal Credit Union, Pacific IBM Federal Credit Union, STA, and TCUL.

[11] CUNA, Educational Employees Credit Union, Indiana League, Pacific IBM Federal Credit, and TCUL.

unions, CUNA believes that state credit union authorities, if they have not already done so, will interpret their state laws to allow such guarantees as an "incidental power" or "goodwill service." CUNA thus believes that all credit unions should be eligible guarantor institutions, unless a specific state interpretation to the contrary governs.[12]

In response to these commentators, the Commission has revised the definition of "eligible guarantor institution" to include credit unions as that term is defined in section 19(b)(1)(A) of the Federal Reserve Act [12 U.S.C. 461(b)]. The Commission revised the definition so that all guarantor institutions, including non-federally insured credit unions, that are authorized to provide signature guarantees are included in the definition of eligible guarantor institution.

In revising and adopting this definition, however, the Commission is not authorizing eligible guarantor institutions to issue signature guarantees because it is not within the Commission's authority to do so. The authority to issue signature guarantees for state chartered credit unions may be found in state law and state commercial codes, and state regulatory authorities.[13] Accordingly, transfer agents may require assurance that the guarantor institution is authorized to issue signature guarantees, to the extent it is not a matter of general knowledge that such institutions have signature guarantee authority.[14] Nevertheless, transfer agents making such a request should remember that an issuer or its transfer agent is liable to the person presenting a certificated security or an instruction for registration or his principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer, pledge, or release.[15]

Two commentators, FDR and CTAA urged further clarification of the types of financial institutions that are included within "eligible guarantor institutions." For example, FDR commented that the reference in the rule to "clearing agency" should explicitly note that clearing agencies include securities depositories, and that the reference to "savings association" includes "savings and loan associations." CTAA also requested that the definition of savings association specify "savings and loan association."

The Commission is not making these changes because it believes the changes are unnecessary. The definition of "clearing agency" under section 3(a)(23) of the Exchange Act [15 U.S.C. 78c(a)(23)] includes, among other things, securities depositories. In addition, the definition of "savings association," as that term is defined in section 3(b) of the Federal Deposit Insurance Act [12 U.S.C. 1813(b)] includes, among other things, any savings and loan association which is organized and operating according to the laws of the state in which it is chartered or organized.

*B. Definition of Guarantee*

In response to commentators, as discussed below, the Commission has revised the definition of "guarantee" by deleting references made to "guarantees of erasures, alterations, or similar changes material to the certificate," and guarantees of "endorsements on the certificate." As revised, the term "guarantee" means a guarantee of the signature of the person endorsing a certificated security, or originating an instruction to transfer ownership of a security, or instructions concerning transfer of securities.

Three commentators [16] stated that the proposed definition of "guarantee" is too broad because it includes endorsement guarantees. One of these commentators noted that reference in the rule to include "guarantee of endorsers" would require signature guarantors to become a guarantor of endorsement which would change state law. This commentator explained that the accepted doctrine, as embodied in the U.C.C., does not allow the issuer to demand a guarantee other than the signature guarantee and suggested that "guarantee" only include the traditional "signature guarantee" without reference to "guarantee of endorsers." [17]

Bear Stearns objected to the broad definition of guarantees and the inclusion of erasure guarantees. Bear Stearns believes that the act of guaranteeing the authenticity of an endorser's signature should not include an erasure guarantee which could extend a broker-dealer's liability to alterations that are not within the broker-dealer's control. Bear Stearns further explained that liability currently attaches to the firm that erases or otherwise alters a certificate by requiring that firm to affix its own specific erasure guarantee.

In proposing the definition of "guarantee," the Commission intended to define "guarantee" broadly to protect the various types of guarantees used by the financial community from inequitable treatment of transfer agents. The Commission did not and does not intend to extend what an issuer or its transfer agent may require from presentors of certificates or instructions or to change existing guarantee or warranty liabilities.[18]

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[12] Similarly, TCUL noted that a significant number of state chartered credit unions are not federally insured. TCUL provided an example of specific authority granted to credit unions chartered in Texas, under Texas law, [article 2461-4.01(a)25 V.A.T.S.]. TCUL also commented that virtually all state credit union acts have incidental power provisions that would provide state credit unions authority to provide signature guarantees since incidental provisions give credit unions the right to exercise such powers as may be necessary to accomplish the purposes for which credit unions are authorized. TCUL also suggested that federal statutes, as they have been applied in the past, may be applied to state credit unions by making them applicable not only to those which are actually federally insured but to those which are eligible to apply for such insurance.

[13] NCUA offered clarification of a reference in the Proposing Release concerning credit union authority to issue signature guarantees. NCUA noted that the 1986 NCUA General Counsel Opinion Letter cited in the Proposing Release only addressed the authority of federal credit unions because the NCUA only has authority to interpret the powers of federal credit unions. NCUA also noted that the authority for state chartered credit unions to offer signature guarantee services would have to come from the appropriate state enabling act, state regulations or the state supervisory authority.

[14] For example, a citation to specific statutory authority or an opinion of general counsel of the state regulatory authority should be sufficient.

[15] U.S.C. 8-401(2).

[16] Professor Guttman, FDR, and STA.

[17] The STA and FDR expressed similar views. See letters from the STA and FDR. FDR also requested that the proposed definition of guarantee be expanded to include "one-and-the-same" guarantees, which are different in nature from "guarantees of erasures, alterations, or similar changes."

[18] Under section 8-402(1) of the U.C.C., an issuer or its transfer agent may require assurance that each necessary endorsement of a certificated security or each instruction is genuine and effective. This assurance may include, in all cases, a guarantee of the signature (section 8-312(1) or 8-312(2)) of the person endorsing a certificated security or originating an instruction. Section 8-312(1) states that any person guaranteeing a signature of an endorser of a certificated security warrants that at the time of signing: (a) The signature was genuine; (b) The signer was an appropriate person to endorse (Section 8-308); and (c) The signer had legal capacity to sign. Section 8-312(2) states that any person guaranteeing a signature of the originator of an instruction warrants that at the time of signing: (a) The signature was genuine; (b) The signer was an appropriate person to originate the instruction (section 8-308) if the person specified in the instruction as the registered owner or registered pledgee of the uncertificated security was, in fact, the registered owner or registered pledgee of the security, as to which fact the signature guarantor makes no warranty; (c) The signer had legal capacity to sign; and (d) The taxpayer identification number, if any, appearing on the instruction as that of the registered owner or registered pledgee was the taxpayer identification number of the signer or of the owner or pledgee for whom the signer was acting.

Accordingly, in response to these comments and to avoid any confusion, the Commission revised the definition of guarantee to delete references to "guarantees of erasures, alterations, or similar changes material to the certificate," and guarantees of "endorsements on the certificate."

Four commentators requested clarification of the proposed definition of guarantee to the extent the definition relates to investment companies.[19] U.S. League commented that the proposal does not make reference to the abuses of investment companies in their requirements for signature guarantees for various aspects of their operations, (*i.e.*, for check-writing privileges, many investment companies require a customer to have his or her signature guaranteed by a bank). U.S. League recommends that the definition of guarantee be expanded to include guarantees required by investment companies. Professional Federal Credit Union also urged that the definition of guarantees include modification of ownership or liquidation of shares in a mutual fund.

ICI and T. Rowe Price commented that the definition of guarantee does not contemplate that the vast majority of mutual fund shares outstanding that are not in certificated form and the vast majority of transactions in mutual fund shares do not involve transfers of ownership. These commentators noted that mutual fund transfer agents accept signature guarantees on several instructions that do not have immediate financial consequences (such as changes in the bank or bank account to which proceeds are to be sent in the event a future redemption instruction is sent by the registered owner) and those "transactions" should not be lumped in automatically with certificate transfers in determining signature guarantee requirements.[20]

The ICI and T. Rowe Price also commented that, to the extent the proposed rule applies to mutual fund transfer agents, the proposed rule would be extremely burdensome, add significantly to processing time, and create significant delays in the completion of transactions. These commentators explained that mutual funds continuously sell and redeem their shares directly to investors and are required by the Investment Company Act of 1940 to honor purchase and redemption orders on the day of receipt at the next computed price per share.[21] Thus, mutual fund transfer agents must pay out large amounts of cash directly from the mutual fund on a daily basis to satisfy the redemption orders of fund shareholders. These commentators believe that mutual funds would be unable to obtain sufficient and reliable current information about potential guarantors and thus, the proposed rule would expose funds and their transfer agents to significant potential liability to shareholders whose redemption requests are delayed. Further, they believe that the proposed rule would add significantly to the cost for transfer agent services, which is a typical mutual fund's single largest expense item after portfolio management.

The Commission agrees with the U.S. League that transfer agent guarantee acceptance practices in connection with mutual fund transactions should be subject to Rule 17Ad–15. The definition in Rule 17Ad–15 of "guarantee" includes guarantees required by "closed end" investment companies and "open end" mutual funds to transfer or "redeem" these securities.[22]

To clarify that all mutual fund transactions are covered by the rule, including instructions that do not have immediate financial consequences (*i.e.*, instructions to change standing instructions about wiring mutual fund proceeds to a designated bank account), the definition of "guarantee" includes "instructions concerning the transfer of securities." The Commission believes that if a mutual fund or its transfer agent chooses to rely on signature guarantees as its safeguard against forged or unauthorized signatures, the mutual fund or its transfer agent must accept signature guarantees on an equitable basis.[23]

The Commission cannot accept the ICI's views and suggestions. The ICI raises many of the same objections to the proposed rule that transfer agents handling other types of securities have raised, which are the subject of discussion elsewhere in this release. The ICI correctly notes that mutual funds are required to act on shareholder instructions, including redemption instructions, within specific timeframes. Those obligations do not require action, however, unless the mutual fund is satisfied that the shareholder authorized to redeem shares has in fact issued that instruction. Indeed, mutual funds often require redemption instructions to include a signature guarantee from an acceptable guarantor institution to protect themselves against potential financial risk.[24] Moreover, because mutual funds often limit acceptable guarantors to commercial banks or broker-dealers who are members of a national securities exchange or association,[25] it cannot be said that these transfer agents do not already have standards for acceptance of guarantors and internal procedures to carry out those standards. Accordingly, the Commission is not aware of any reason why transfer agents that process mutual fund transactions should not be included within the scope of Rule 17Ad–15.

## V. Rule 17Ad–15(b): Acceptance of Signature Guarantees

Rule 17Ad–15(b) is adopted with one clarifying change.[26] As clarified, Rule 17Ad–15(b) prohibits a registered transfer agent from engaging in any activity in connection with a guarantee, including the acceptance or rejection of such guarantee, that results in the inequitable treatment of any eligible guarantor institution, or a class of institutions. Rule 17Ad–15(b) implements section 17A(d)(5) of the Exchange Act as amended by section 206 of the Enforcement Act. No commentators directly addressed Rule 17Ad–15(b).

[19] ICI, Professional Federal Credit Union, T. Rowe Price, and U.S. League.

[20] The ICI argues that mutual funds often require signature guarantees when a shareholder changes information on file, such as where the proceeds of a redemption should be sent. The ICI argues that these "instructions" do not involve immediately identifying values and do not involve transfer of ownership.

[21] The Commission is not aware of any circumstances under which mutual funds or their transfer agents request signature guarantees as a condition to processing a purchase order from customers. That may not be the case, however, where a sale order precedes or accompanies a purchase order. Nevertheless, this should be considered a sale followed by a purchase.

[22] The Commission's rules concerning transfer agents treat redemptions of mutual funds as transfers of securities. See Securities Exchange Act Rule 17Ad–4 which exempts redeemable securities from rules concerning the turnaround of items presented for transfer (*e.g.*, Rule 17Ad–2) and Securities Exchange Act Rule 17Ad–9(a)(7) which defines "certificate detail" with respect to redeemable securities.

[23] For example, if a mutual fund transfer agent requires a signature guarantee to authorize the mutual fund to deposit proceeds from the sale of securities, then it must accept such guarantees from all qualified guarantor instructions on an equitable basis.

[24] These signature guarantees are the same signature guarantees that any issuer or transfer agent may require under state law

[25] These limitations are usually included in the mutual fund's prospectus. Accordingly it seems difficult to argue that mutual fund transfer agents currently do not have signature guarantee standards and procedures for implementing the same, although those standards do not comply with the requirements of Rule 17Ad–15.

[26] The Commission has modified the rule to clarify that practices that result in the inequitable treatment of a class of eligible guarantor institutions also would be prohibited.

### VI. Rule 17Ad–15(c): Written Standards and Procedures

As proposed, Rule 17Ad–15(c) requires transfer agents to establish written standards for the acceptance of guarantees of securities transfers from eligible guarantor institutions and written procedures, including written guidelines where appropriate, to ensure that those standards are used by the transfer agent in determining whether to accept or reject guarantees from eligible guarantor institutions. In proposing Rule 17Ad–15(c), the Commission intended transfer agents to establish and follow written standards, in accepting or rejecting signature guarantees, that will facilitate the equitable treatment of eligible guarantor institutions as required by Rule 17Ad–15(b). Rule 17Ad–15(c) also will facilitate monitoring transfer agent compliance with the rule and will help ensure that the criteria a transfer agent uses to determine whether to accept a guarantee from any particular financial institution are not manifestly unreasonable and do not, as written or applied, treat different classes of eligible guarantor institutions inequitably.

Thirty-two commentators addressed proposed Rule 17Ad–15(c).[27] Four of these commentators supported the proposal without change.[28] The remainder expressed objections either to the proposed requirements as drafted or to the approach underlying these requirements—mandating that each transfer agent be responsible for establishing, maintaining and administering independent standards for acceptance of guarantees. Sixteen of the thirty-two commentators urged that the Commission revise its regulatory approach to ensure that transfer agents' written standards and procedures are consistent and uniform.[29] For example, the Alliance commented that the Commission cannot effectively ensure equitable treatment among signature guarantors without uniform specific standards applicable to all transfer agents. The Alliance noted that the rule as proposed would place a tremendous burden on transfer agents to develop standards on an individual basis. Additionally, guarantors would be faced with many different standards and procedures, and would have the costly and time-consuming burden of determining what those standards are for a particular transfer agent.

Eight of the sixteen commentators requested direct Commission involvement in writing, approving, or reviewing transfer agents' standards and procedures.[30] For example, the NAFCU supported established written standards and procedures, subject to Commission review to ensure consistency and compliance. TRW suggested that the Commission establish minimum guidelines that would lend some degree of uniformity to the transfer agents' standards.

Five of the thirty-two commentators commented that written standards and procedures would not ensure the equitable treatment of guarantor institutions.[31] The STA commented that written standards and procedures would not ensure equitable treatment of guarantors on an across-the-board basis, because there would necessarily be variations among the standards of individual transfer agents. The STA noted that the rule as proposed would require examination of a guarantor's creditworthiness in individual instances and the necessary fact-finding and related recordkeeping with regard to rejected guarantees which would not only be exceedingly costly and burdensome but would also introduce heretofore unknown inefficiencies into the security transfer process.

Similarly, the U.S. League commented that the use of written standards in isolation would not accomplish the desired results of eliminating inequities and improving efficiency in handling guarantees and transfers. The U.S. League urged the Commission to be more directly involved in the establishment of a centrally administered program. The U.S. League noted that the rule as proposed would leave guarantors with no reasonable means of knowing the idiosyncratic standards of those stock transfer agents, and thus, guarantors would be unable to act on behalf of their customers with the assurance that their guarantees would be accepted. The U.S. League commented that the proposed rule would require transfer agents to develop and administer elaborate standards and would require guarantors to establish a means of determining whether or not each guarantee transaction actually met a guarantor's standards. The U.S. League also noted that standards based on capital would lead to confusion since capital is defined in many ways and would be hard to interpret.

Several commentators objected to Rule 17Ad-15(c) because they believe that the costs of assessing the creditworthiness of the increased number of guarantor institutions would outweigh the benefits of the proposed rule. The views of these commentators are explained below, in section VII, Proposed Rule 17Ad-15(d).

The Commission is adopting Rule 17Ad-15(c) as proposed. The Commission believes that the proposed rule is the best approach to ensure that the criteria used by transfer agents in accepting or rejecting signature guarantees treats all eligible guarantor institutions equitably.

First, the Commission does not believe it should make credit decisions for third parties. Establishing minimum or uniform standards would require the Commission to do just that.

Second, this approach—not adopting minimum standards for transfer agents—is more consistent with state law than an approach where the Commission adopted uniform standards for transfer agents. Under state commercial law, transfer agents may require a guarantee of the signature signed on behalf of a person reasonably believed by the issuer, or its transfer agent, to be responsible.[32] State commerical law does not require transfer agents to establish particular standards and, for that matter, neither does Rule 17Ad-15(c). State commercial law also allows the issuer or its transfer agent to adopt standards with respect to responsibility if they are not manifestly unreasonable.[33] Similarly, Rule 17Ad-15(c) would require transfer agents to adopt standards, in writing, and to have procedures to apply those standards consistent with equitable treatment of eligible guarantors.

Third, the Commission's approach is consistent with industry practice and could be sufficient to address current practices that result in inequitable

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[27] ABA, Alliance, Bear Stearns, CTAA, CUNA, Educational Employees Credit Union, FDR, Hawaii League, Harbor Federal, IBM Endicott/Owego Employees Federal Credit Union, ICI, Indiana League, Langley Federal Credit Union, Manufacturers Hanover, Mellon, Merrill, NAFCU, Navy Federal Credit Union, New Jersey League, New York League, OTS, Pacific IBM Federal Credit Union, Professional Federal Credit Union, Professor Guttman, Shearson, SIA, STA; TCUL, TRW, U.S. League, USX, and Wisconsin Energy.

[28] Indiana League, Langley Federal Credit Union, Orange County Federal Credit Union, and OTS.

[29] Alliance, Educational Employees Credit Union, Harbor Federal, IBM/Endicott/Owego Employees Federal Credit Union, Mellon, Merrill, NAFCU, Navy Federal Credit Union, New Jersey League, New York League, Pacific IBM Federal Credit Union, SIA, STA, TCUL, TRW, and Wisconsin Energy Corp.

[30] Alliance, Educational Employees Credit Union, NAFCU, New Jersey League, New York League, Pacific IBM Federal Credit Union, SIA, and TRW.

[31] CTAA, FDR, Manufacturers Hanover, STA, and U.S. League.

[32] U.C.C. 8–402.

[33] *Id.*

treatment of eligible guarantor institutions. Issuers and their transfer agents have made these credit determinations with respect to the guarantor's responsibility for many years. Many transfer agents now have policies that exclude guarantor institutions based solely on the type of institution, which the Commission has advised is contrary to state law. Rule 17Ad-15, analogous to state commercial law, requires transfer agents to adopt written standards and procedures that do not establish terms and conditions (including those pertaining to financial condition) that, as written or applied, treat different classes of eligible guarantor institutions inequitably, or result in the rejection of a guarantee from an eligible guarantor institution solely because the guarantor institution is of a particular type of eligible guarantor institution.

**VII. Rule 17Ad-15(d): Rejection of Items Presented for Transfer**

Rule 17Ad-15(d) is adopted with modifications, as discussed below, to require a transfer agent to provide notice to guarantors and presentors of a determination to reject a transfer if the guarantor does not satisfy the transfer agent's written standards or procedures. As adopted and as proposed, Rule 17Ad-15(d) requires a transfer agent to make certain determinations before rejecting a transfer request because of the signature guarantor. In particular, Rule 17Ad-15(d) requires the transfer agent to make a determination that the guarantor, if it is an eligible guarantor institution, does not satisfy the transfer agent's written standards or procedures.

Three commentators stated that the cost of establishing written standards and procedures and assessing whether a guarantor institution's creditworthiness satisfies those standards would outweigh the benefits of the proposed rule.[34] The CTAA commented that the cost of establishing and maintaining such standards would far exceed current expenditures to maintain and review signature cards. Further, the CTAA noted that the proposed standards would require continued monitoring, either annually or quarterly, when interim financial results are published. The CTAA believes that it would be difficult, if not impossible, to establish purely objective guidelines to enable transfer agents to eliminate possible inequitable treatment.

USX commented that the cost of complying with the proposed rule would be substantially more than the Commission indicates. USX stated that it believes that the cost to assess the creditworthiness of guarantor institutions through commercial vendors or government agencies would be up to $3.5 million per year. USX also noted that transfer agents could not afford to hire the necessary number of employees with the specialized skills to do in-house analysis of every guarantor (*i.e.*, it requires twenty to thirty USX employees to perform credit analyses of its steel customers alone). Therefore, USX believes that the proposed rule would be impracticable to administer and would make it more difficult to meet turnaround deadlines as required by Rule 17Ad-2.[35]

Several commentators noted that transfer agents will require additional time to process transfers and that the Commission should consider extending the current timeframes for turnaround of routine items under Rule 17Ad-2 or otherwise adjusting current regulatory requirements related to processing ownership transfers. For example, FDR commented that the cost of looking up credit information for each guarantor would likely exceed the cost of checking signatures against signature cards as is done under the present system, would significantly delay the transfer process, and, for that reason, the Commission should define such transfers as non-routine under Rule 17Ad-1(i)(4) "supporting documentation."[36]

Two commentators, the Alliance and the U.S. League, requested the Commission to require transfer agents to notify guarantors in a timely manner of the specific reason for any signature guarantee rejection and to specify in writing the specific standard or procedure on which the rejection was based. The Alliance also requested the transfer agents notify any guarantor whose guarantee was rejected within a certain number of days of rejection.

The Commission is adopting Rule 17Ad-15(d) with a modification to require a transfer agent to provide notice to guarantors and presentors of a determination to reject a transfer if the guarantor does not satisfy the transfer agent's written standards or procedures. As amended; Rule 17Ad-15(d) requires registered transfer agents to notify the guarantor and the presentor of the rejection and the reasons for such rejection within two business days after rejecting a transfer request because of a determination that the guarantor does not satisfy the transfer agent's written standards or procedures. A transfer agent may satisfy the two-day notification requirement to the presentor by returning the rejected item to the presentor along with a copy of the transfer agent's standards and the reasons for the rejection. With regard to notification to a guarantor, a transfer agent may satisfy this notification requirement by sending a copy of the transfer agent's standards at the time the transfer agent notifies the guarantor of the rejection.

The Commission believes that Rule 17Ad-15(d) is consistent with state commercial law with respect to transfer agent credit determinations. Although Rule 17Ad-15(d) requires transfer agents to assess the creditworthiness of the guarantor institution, transfer agents currently make those credit determinations in accepting or rejecting signature guarantees and state commercial law requires these determinations to be reasonable. Rule 17Ad-15(d) is consistent with state commercial law and, specifically, U.C.C. 8-402, which allows transfer agents to make a determination that the guarantee is signed by a person the issuer or its transfer agent reasonably believes is responsible.

Under Commission rules, transfer agents are required to turn around within three business days of receipt at least 90 percent of all routine items presented for transfer during a month.[37] However, determinations made with respect to signature guarantees may be considered "non-routine" under Rule 17Ad-1(a)(1)(i) if the transfer agent requires, among other things, "additional certificates, documentation, instructions, assignments, guarantees, endorsements, explanations or opinions of counsel before transfer may be effected."

The Commission notes that a tranfer agent may need additional documentation to determine whether the signature guarantor satisfies the transfer agent's written standards. As noted above, however, state commercial laws generally impose liability on the issuer or its transfer agent in favor of the person presenting a certificated security or an instruction for registration or his principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer, pledge, or release.[38]

[34] CTAA, Procter & Gamble, and USX.

[35] Similarly, Procter & Gamble stated that transfer agents would be unable to closely monitor the financial condition of the expanded universe of guarantor institutions. Procter & Gamble stated that the proposed rule would require it to add at least two additional employees at a cost of approximately $100,000 annually to verify the creditworthiness of guarantors.

[36] Professor Guttman, FDR, and USX.

[37] Securities Exchange Act Rule 17Ad-2, 17 CFR 240.17Ad-2.

[38] U.C.C. 8-401(2).

Two commentators stated that transfer agents should bear the burden of proof in determining whether the criteria used to accept or reject signature guarantees satisfies the proposed rule. The NAFCU commented that transfer agents should bear the burden of proof of determining whether the criteria used to accept or reject signature guarantees satisfies the proposed rule. Pacific IBM Federal Credit Union believes that transfer agents should bear the burden of proof only if procedures are in place to allow near instant dial-up between transfer agents and the Federal Deposit Insurance Corporation ("FDIC") and NCUA.

Another commentator suggested that signature guarantors should bear the burden of proof. According to this commentator, there is no reason why the burden of showing discriminatory standards or inequitable application of those standards should not be on the party alleging a violation of a Commission requirement.

As adopted, the rule is designed to require transfer agents to have written standards, to determine whether the guarantor meets those standards and to apply such standards equitably among eligible guarantor institutions. Thus, a transfer agent rejecting a signature guarantor must explain why the guarantor institution did not meet the transfer agent's guarantee standards. A guarantor challenging that determination or the transfer agent's written standards, however, would bear the burden of proof to show that the transfer agent's standards, as written, violated Rule 17Ad–15.

## VIII. Rule 17Ad–15(e): Record Retention

Rule 17Ad–15(e)(1) requires registered transfer agents to maintain a copy of their standards and procedures in an easily accessible place. Rule 17Ad–15(e)(2) requires transfer agents to provide any requesting party, within three days of the request, a copy of the transfer agent's standards and procedures. Rule 17Ad–15(e)(3) requires transfer agents to maintain, for a period of three years following the date of the rejection, a record of all transfers rejected, along with the reason for the rejection, who the guarantor was and whether the guarantor failed to meet the transfer agent's guarantee standard.

The Commission made one modification to the proposed rule to require transfer agents to provide copies of their standards to the public upon request.

Eleven commentators addressed proposed Rule 17Ad–15(e).[39]

Six commentators stated that transfer agents should provide written standards and procedures upon request.[40] For example, the Alliance requested that the Commission include comprehensive and specific requirements for making standards available upon request and require that the standards and procedures be maintained in the transfer agent's main office. The Alliance also requested that transfer agents provide the standards within a certain number of days and that the Commission prohibit any charge for providing the standards and procedures.

The Commission agrees with commentators that the public should have ready access to a transfer agent's written standards and procedures and that the transfer agent should provide those standards upon request. Thus, the Commission has renumbered proposed Rule 17Ad–15(e)(2) to Rule 17Ad–15(e)(3) and added a new Rule 17Ad–15(e)(2) which requires transfer agents to provide a requesting party, within three days of receipt of the request, a copy of the transfer agent's standards and procedures.

The Commission believes that the transfer agent may refuse to make available the standards, until a reasonable fee to cover its expenses of providing such standards is paid, when the request for or the mailing of such transfer agent standards is from the general public and is not incident to a guarantee or transfer rejection because the guarantor did not meet the transfer agent's guarantee standards.[41] While transfer agents may charge a reasonable fee, the Commission believes that it is in the best interest of transfer agents and issuers to make such information as widely available as possible to minimize transfer delays.

Five commentators argued that the recordkeeping burden imposed by Rule 17Ad–15(e) would be too costly.[42] For example, the STA stated that the recordkeeping burden with regard to rejected guarantees will not only be exceedingly costly and burdensome but will introduce heretofore unknown inefficiencies into the security transfer process. Procter & Gamble stated that the recordkeeping and tracking systems required by the proposed rule would likely cost approximately $50,000 annually.

The Commission believes that the cost to transfer agents to maintain a copy of their individual standards and procedures are minimal. The cost associated with the recordkeeping of rejected items will vary from transfer agent to transfer agent. There are, of course, going to be costs associated with establishing standards that provide for equitable treatment of guarantors, to the extent that a transfer agent's current standards do not comply with the Rules as adopted. Nevertheless, transfer agents that have established clear standards and seek to have those standards widely known should not have a lot of rejected items once guarantors learn about the transfer agents' standards. Thus, recordkeeping costs should be lower for such transfer agents. Likewise, transfer agents that require all guarantors to be participants in or members of a signature guarantee program should have fewer rejected items once guarantors know of the transfer agents' standards. Moreover, the record retention requirement is important to the Commission's and other regulatory agencies' efforts to monitor and enforce the rule.

## IX. Rule 17Ad–15(f): Exclusions

Rule 17Ad–15 specifies certain instances where transfer agents may reject signature guarantees from guarantor institutions without violating Rule 17Ad–15. Rule 17Ad–15(f)(1) provides that a transfer agent may reject a transfer request for reasons unrelated to acceptance of the guarantor institution.[43] Rule 17Ad–15(f)(2) allows a transfer agent to reject a transfer if the person purportedly acting on behalf of the guarantor institution is not authorized by that institution to act on its behalf. Rule 17Ad–15(f)(3) allows a transfer agent to reject transfers from broker-dealers that are not members of a registered clearing agency and do not

[39] Alliance, CTAA, FDR, NAFCU, Navy Federal Credit Union, Orange County Federal Credit Union, TCUL, TRW, Procter & Gamble, STA, and Wisconsin Energy.

[40] Alliance, NAFCU, Navy Federal Credit Union, Orange County Federal Credit Union, TCUL, and TRW.

[41] A transfer agent may not hold up sending such standards when the transfer involves a rejection because the guarantor did not meet the transfer agent's guarantee standards. See discussion regarding notification of a rejected item under Rule 17Ad–15(d), *supra*, p. 28.

[42] CTAA, FDR, Procter & Gamble, STA, and Wisconsin Energy

[43] For example, a transfer agent may reject a transfer where the transfer agent reasonably believes that the transfer would be wrongful, the issuer has a duty as to adverse claims, the signature is forged, or the transfer would result in a violation of any applicable law relating to the collection of taxes.

maintain net capital in excess of $100,000.

The Commission proposed Rule 17Ad–15(f) as a "safe harbor" for transfer agents for rejections of securities transfers that some might otherwise view as a violation of the rule. Subsection (1), (2), and (3) of proposed Rule 17Ad–15(f) is the same as the adopted rule. Proposed Rule 17Ad–15(f)(4) would have provided a "safe harbor" for transfer agents for rejected securities transfers if the dollar value of the securities subject to the requested transfer exceeds a maximum dollar value as specified in the transfer agent's standards or procedures, provided that the maximum dollar value specified applies to all eligible guarantor institutions or bears a reasonable relationship to the financial condition of the eligible guarantor institution whose guarantee was rejected.

Seventeen commentators addressed the safe harbor exclusions enumerated in proposed Rule 17Ad–15(f). Two commentators addressed proposed Rule 17Ad–15(f)(1). The U.S. League stated that it supported Rule 17Ad–15(f)(1). The TCUL suggested that the proposed exclusion is too broad and recommended the rule be revised to provide an exclusion for "reasons unrelated to the guarantor institution if such rejection is otherwise permitted by applicable law."

The Commission has decided to adopt Rule 17Ad–15(f)(1) as proposed. Rule 17Ad–15(f)(1) is designed to clarify that the Rule does not change current transfer agent practices in areas unrelated to acceptance or rejection of guarantors. Today, a transfer agent relies upon its own experience and industry practice to determine if it has a reasonable legal basis for rejecting a transfer. The Commission believes that adding the language, "if such rejection is otherwise permitted by applicable law," may create uncertainty about whether a transfer agent can rely upon its own experience and industry practice in determining if it has a reasonable basis for a rejection that is unrelated to the guarantee.

Three commentators addressed proposed Rule 17Ad–15(f)(2). The U.S. League stated that it supported Rule 17Ad–15(f)(2). The CTAA generally supports Rule 17Ad–15(f)(2) and believes that tighter controls should be the responsibility of the financial institutions and that transfer agents should not have the responsibility to assure authorized signatures on behalf of eligible guarantors are proper and genuine. FDR commented that the rule should include an exclusion that reads: "because the security bears a signature guarantee by a person which is not an eligible guarantor institution."

The Commission has decided to adopt Rule 17Ad–15(f)(2) as proposed. The provision is designed to allow transfer agents to require reasonable assurances that the person signing the guarantee has the authority to act on behalf of that institution as currently is the practice in the securities industry through signature card programs. The Commission declined to establish a safe harbor for rejections because the security or instruction bears a signature guarantee from a non-eligible guarantor institution. Because the rule only deals with signature guarantees from eligible institutions, the Commission does not believe that such an exclusion is needed.

Three commentators addressed proposed Rule 17Ad–15(f)(3). The U.S. League stated that it supported Rule 17Ad–15(f)(3). Bear Stearns suggested that the proposed rule needs to be clarified so that transfer agents' scope and discretion are defined. FDR commented that transfer agents must have knowledge of the guarantor's membership in a registered clearing agency or about its net capital. FDR noted that transfer agents do not maintain such information today. Accordingly, FDR argued that an agent would have to establish and continuously update a new data base—the cost of which could conceivably approach the cost of the present signature card system.

The Commission has decided to adopt Rule 17Ad–15(f)(3) as proposed. As the Commission stated in the Proposing Release, the proposed safe harbor is permissive and not mandatory. The Commission believes that no clarification is needed regarding the scope of this rule and that any cost associated with this safe harbor is totally discretionary.

Thirteen commentators addressed proposed Rule 17Ad–15(f)(4).[44] Seven commentators supported the proposed exclusion.[45] For example, the STA stated that a transfer agent should be able to reject transfers in which the value of the securities involved exceeds an amount with which the transfer agent is comfortable on an objective basis since the very nature of the signature guarantee is that it is given repeatedly in a multitude of situations. The STA also stated that while the chances of forged or unauthorized endorsements are few, there is still a substantial risk to the transfer agent that the guarantor will not be financially responsible when called upon. Therefore, the STA believes that transfer agents should be permitted to continue to exercise basic business judgment, objectively applied, in accepting guarantees where the value of the securities involved is excessive.

CUNA supported the exclusion, but stated that a maximum dollar figure that a credit union can guarantee within a certain period should be set on a non-discriminatory basis. CUNA also suggested that transfer agents should consider not only criteria within the institutions themselves, such as its capital, but also the financial institution's insurance limits.

Langley stated that it supported the exclusion enumerated in Rule 17Ad–15(f)(4) since it is appropriate to be able to guarantee up to, but not exceeding, an institution's guarantee capability. Langley stated that capital requirements should be similar to those minimal capital requirements established for the guarantor by the regulatory bodies with regulatory jurisdiction or insurance coverage responsibility for the guarantor (*e.g.*, in Langley's case, NCUA and Navy Federal Credit Union). Langley also commented that transfer agents should be permitted to use NCUA's "5300" reports to determine a credit union's credit-worthiness. Langley suggested that these reports provide feasible access to information about credit unions.

Six commentators objected to proposed Rule 17Ad–15(f)(4).[46] For example, NAFCU stated that it strongly objects to the ambiguous language of Rule 17Ad–15(f)(4) since the exclusion could be inappropriately used by some stock transfer agents to reject signature guarantees from credit unions. NAFCU believes that surety bond coverage rather than the financial condition of the institutions should be sufficient to justify the acceptance of a guarantee. NAFCU also commented that the proposed exclusion would be detrimental to small institutions and administratively impracticable for transfer agents to monitor accurately the contingent liabilities of a guarantor institution.

FTC stated that the exclusion in proposed Rule 17Ad–15(f)(4) would be unfair and impractical since any criteria regarding the guarantor's capital should be linked to its credit rating. FTC also

[44] Bear Stearns, CUNA, FTC, Indiana Credit League, Langley, Merrill, NAFCU, Navy Federal Credit Union, Orange County Federal, Professional Federal Credit Union, Shearson, STA, and U.S. League.

[45] CUNA, Indiana League, Langley, Navy Federal Credit Union, Orange County Federal Credit Union, Professional Federal Credit Union, and STA.

[46] Bear Stearns, FTC, Merrill, NAFCU, Shearson, and U.S. League.

commented that a seller of a large amount of stock represented by a single certificate exceeding the transfer agent's maximum would first have to submit the certificate to the transfer agent and request that the stock be re-issued to the seller in smaller denominations. FTC explained that this would slow down the transfer process, thereby reducing the liquidity of any stock that is certificated rather than book-entry. FTC believes that the result of the exclusion would be contrary to the goal of the Group of Thirty since the exclusion would require custodian banks to request and hold an increased number of physical certificates in smaller denominations, and thus would increase unnecessarily the overall number of transactions and certificates.[47]

The U.S. League objected to proposed Rule 17Ad-15(f)(4) because the U.S. League believes that it would be impossible for transfer agents to know what the current inventory of guarantees is for any guarantor at any given time. The U.S. League also commented that it would be impossible for guarantors to determine whether or not a particular signature guarantee transaction will meet the threshold of a particular transfer agent.

The Cashiers, Merrill, Bear Stearns, and Shearson expressed concern about how the proposed exclusion could affect broker-dealer practices in the handling (*i.e.*, delivery or receipt) of physical certificates (*e.g.*, what constitutes a "good delivery" of securities and good delivery criteria such as number of shares per certificate or dollar value per certificate). Merrill stated that the exclusion would present a burden on the financial community in the area of physical deliveries. Shearson stated that it believes the exclusion would result in a connection being established between what dealers will accept as "good delivery" and the amount of monies involved in a transfer.[48] The Cashiers also objected to the exclusion since the exclusion would prevent a broker-dealer from making a delivery of securities having a market value in excess of the broker-dealer's surety limit (*e.g.*, $1,000,000).

Shearson explained that "the extension of credit or a guarantee signed by a brokerage financial intermediary to its clients clearly speaks to the intermediatory management process and accountabilities, including credit assessments. Any expectation that such financial intermediary should pass 'judgment' on someone else's clients is unrealistic, especially when the result is to shift the financial burdens to those who are clearly not engaged in that business, and at a time after money has changed hands upon receipt of delivery."

The Commission has deleted proposed Rule 17Ad-15(f)(4) from the final rule to avoid confusion. Several of the commentators stated that insurance and bond coverage should be considered rather than the financial condition of the guarantor institution. There also was confusion over the effect the safe harbor would have on "good delivery" rules. To avoid such confusion, the Commission believes that it is better if the rule is silent on whether transfer agents may set a maximum dollar amount threshold on the value of securities subject to a single guarantee. In deleting the safe harbor, however, it is the Commission's explicit intent not to affect existing agreements between clearing agencies and transfer agents concerning procedures or incidental guarantees.[49]

### X. Rule 17Ad-15(g): Signature Guarantee Programs

Rule 17Ad-15(g) has been adopted to permit transfer agents to reject a request for transfer because the guarantor was neither a member of nor a participant in a "signature guarantee program," and to permit transfer agents to accept signature guarantees only from guarantors who are participants in a "signature guarantee program." Rule 17Ad-15(g) defines a "signature guarantee program" to be a program the terms and conditions of which the transfer agent reasonably determines are designed to facilitate the equitable treatment of eligible guarantor institutions, and to promote the prompt, accurate and safe transfer of securities by providing: (i) Adequate protection to the transfer agent against risk of financial loss in the event persons have no recourse against the eligible guarantor institution; and (ii) adequate protection to the transfer agent against the issuance of unauthorized guarantees. Rule 17Ad-15(g) also will require a transfer agent, during a transition period, to provide that guarantor ninety days written notice of the transfer agent's intent to reject transfers with guarantees from non-participating or non-member guarantors before rejecting any guarantees for that reason. The transition period would be six months, starting on the date the transfer agent revises its standards and procedures to include a signature guarantee program.

The Commission proposed Rule 17Ad-15(g) to permit a transfer agent to comply with Rule 17Ad-15(c) if the transfer agent's standards and procedures provide for the acceptance of guarantees from eligible guarantor institutions who are participants in a signature guarantee program. The rule, as proposed, did not expressly permit transfer agents to mandate participation in a signature guarantee program. The Commission intended Rule 17Ad-15(g) to alleviate transfer agents' burden in assessing the creditworthiness of the increased number of guarantor institutions. The Commission also intended Rule 17Ad-15(g) to encourage the development of signature guarantee programs that would provide a more efficient transfer process.

Fifty commentators addressed Rule 17Ad-15(g).[50] Of the fifty commentators, forty-three commentators supported a signature guarantee program (voluntary, transfer-agent directed, or Commission mandated),[51] and seven commentators objected to any use of signature guarantee programs.[52]

Twenty-nine of the commentators supported the development of signature guarantee programs and believe participation in such a program should be mandatory.[53] Two predominant

[47] Bear Stearns and Shearson also objected to the proposed exclusion because they believed it would contravene the intended goals of the Group of Thirty.

[48] Shearson explained that "a good delivery is always transferrable. However, a good transfer item is not always necessarily considered a good delivery transaction."

[49] See letter from DTC.

[50] ABA, Alliance, Ameritrust, Bear Stearns, CILCORP, CTAA, CUNA, CUNA Mutual, DQE, DTC, FDR, First Chicago, Gulf States, Harris Bank, ICI, Kemark, Langley, Manufactures Hanover, Meridian Point, Merrill, MWSTA, NAFCU, Navy Federal Credit Union, New Jersey League, New York League, Orange County Federal Credit Union, Otter Tail, Pacific IBM Federal Credit Union, Pentagon Federal Credit Union, Procter & Gamble, Professional Federal Credit Union, Professor Guttman, Registrar and Transfer, San Antonio Teachers Credit Union, Shearson, Smith Barney, STA, SWSTA, TCUL, TRW, U.S. League, U.S. Trust, Union Electric, Mellon, USX, Washington Water Power, WPL Holdings and WSTA.

[51] ABA, Alliance, Ameritrust, Cashiers, CILCORP, CTAA, CUNA, CUNA Mutual, DQE, FDR, ICI, Kemark, Langley, First Chicago, Gulf States, Harris Bank, Manufactures Hanover, Meridian Point, MWSTA, Navy Federal Credit Union, New Jersey League, New York League, NCUA, Orange County Federal Credit Union, Otter Tail, Pacific IBM Employees Federal Credit Union, Pentagon Federal Credit Union, Procter & Gamble, Professional Federal Credit Union, Professor Guttman, Registrar and Transfer, San Antonio Teachers Credit Union, SIA, STA, SWSTA, TCUL, TRW, U.S. League, U.S. Trust, Mellon, Union Electric, USX, Washington Water Power, WPL Holdings and WSTA.

[52] Bear Stearns, Cashiers, DTC, Merrill, SIA, Shearson, and Smith Barney.

[53] ABA, Ameritrust, CILCORP, CTAA, DQE, First Chicago, FDR, Gulf States, Harris Bank, Manufactures Hanover, Mellon, Meridian Point,

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concerns of these commentators were the burden for transfer agents to develop individual written standards and procedures and the difficulty for transfer agents to assess the creditworthiness of guarantor institutions. Although the rule as proposed provides for acceptance of signature guarantees from members in a signature guarantee program, these commentators noted that transfer agents would still be required to assess the financial condition of guarantor institutions that are not members of a signature guarantee program.

The ABA commented that permitting transfer agents to mandate participation in a signature guarantee program would be the least expensive alternative and believes that further cost savings may be realized by eliminating the distribution and maintenance of updated signature cards. The ABA commented that it would be difficult and costly for transfer agents to establish standards and to assess the creditworthiness of the expanded universe of signature guarantors. The ABA estimated that these costs would run in the millions of dollars. The ABA also questioned whether transfer agents would be able to assess the creditworthiness of financial institutions without extending the requisite turnaround time under Rule 17Ad–2. The ABA also expressed concern about the potential cost of participation in a signature guarantee program and the potential for disproportionate impact on many smaller bank members, who may as an accommodation to customers, only guarantee one or two signatures per year.

The STA and the CTAA also urged the Commission to authorize transfer agents to mandate participation in a signature guarantee program, or, alternatively, to require participation in a Commission approved signature guarantee program. The STA and CTAA believe that mandating a signature guarantee program would be the most effective way to meet the Commission's concerns to facilitate the equitable treatment of eligible guarantors and to provide the necessary protection for transfer agents at a reasonable cost.[54]

The NCUA also stated that it supported a requirement that all signature guarantors must participate in a program so long as the Commission prohibits the programs from imposing large fees and cumbersome requirements. The NCUA believes that the current signature card program is outdated, labor intensive, costly, and inefficient, but would oppose any program that operated as a monopoly to exclude other entities in the marketplace from offering similar types of signature guarantee programs.

Procter & Gamble, USX, U.S. Trust, and Mellon, urged the Commission to permit transfer agents to require participation in a signature guarantee program since the cost to assess the creditworthiness of the expanded number of guarantors, including costs to employ the necessary skilled personnel and to receive credit information from government agencies or commercial vendors, would outweigh the benefits of the rule. Procter & Gamble estimated that absent such a rule, it would need to employ two additional people at a cost of approximately $100,000 annually to verify the creditworthiness of guarantors and recordkeeping and tracking systems would likely add another $50,000 annually. USX stated that the cost to a guarantor to participate in a signature guarantee program would be small in comparison to the cost to a transfer agent of having to add employees or purchase additional services on the outside.

Several commentators stated their concern that as a result of the proposed rule guarantor institutions would be confronted with numerous and possibly differing standards since the proposed rule would require each of an estimated 2,000 transfer agents to develop standards and procedures relating to the acceptance of signature guarantees. The U.S. League noted that it would be difficult, costly, and time-consuming for a guarantor to determine whether it meets a specific transfer agent's standards. The U.S. League suggested that program participation should be required to ensure guarantors that transfer agents apply consistent standards relating to the acceptance of signature guarantees.

The Navy Federal Credit Union and the Orange County Federal Credit Union stated that if signature guarantee programs were mandated, there would be some assurance that procedures and guidelines would be consistent and all eligible guarantors would be treated equitably. However, the Navy Federal Credit Union stated that it believes it would be difficult to mandate that all transfer agents and all eligible guarantors must participate in a signature guarantee program.

Several commentators objected to any use of signature guarantee programs. Opponents of signature guarantee programs included Bear Stearns,[55] Cashiers,[56] DTC,[57] Merrill,[58] SIA,[59]

MWSTA, NAFCU, Navy Federal Credit Union, Orange County Federal Credit Union, Otter Tail, Procter & Gamble, Professor Guttman, Registrar and Transfer, STA, SWSTA, Union Electric, U.S. Trust, U.S. League, USX, Washington Water Power, WPL Holdings, WSTA.

[54] Ameritrust, CILCORP, DQE, First Chicago, Gulf States, Harris Bank, Meridian Point, MWSTA, Otter Tail, Registrar and Transfer, SWSTA, Union Electric, Washington Water Power, WPL Holdings, and WSTA supported the STA comment letter.

[55] Bear Stearns objected to the proposed signature guarantee program because it believes that the program as proposed would, by the affixation of a universal medallion, automatically render the certificate fully negotiable. Since the transmittal of negotiable certificates creates substantially greater risk for broker-dealers, as well as greater cost (insurance for negotiable certificates is four times greater), Bear Stearns requests that the power of distribution remain separate and distinct.

[56] Cashiers objected to the use of a signature guarantee program and urged an industry wide consensus in any uniform signature guarantee procedure. Cashiers believes that if some transfer agents decide to only accept a STAMP/Medallion guarantee it would not be operationally possible to carry out daily receipt and delivery of securities. Cashiers also stated its concern with the apparent shift in liability for security registration changes and questioned whether individual firms who affix medallions would be fully liable for the security registration change.

[57] DTC urged the Commission to amend or clarify the proposed rule to require transfer agents to accept facsimile signatures without separate signature guarantees or medallions from registered clearing agencies. DTC stated its concern that the proposed rule would cause some transfer agents to introduce unnecessary and burdensome changes in the process by which certificates registered in the name of DTC's nominee, Cede & Co., are transferred. Currently, certificates registered in the name of Cede & Co. are endorsed by a facsimile signature without a separate signature guarantee. DTC commented that the proposed rule may lead transfer agents to require a signature or medallion guarantee for Cede & Co. certificates which would severely disrupt DTC's operations.

[58] Merrill objected to Rule 17Ad–15(g) as proposed. Merrill believes that before such a program is mandated, the program must establish a specific process that clearly defines "good transfers" or "good delivery" including a clear set of rules or regulations to identify what certifications and/or guarantees are required by the program. Merrill stated that the current value of physical deliveries may have to be analyzed along with direct impact on liquidity. Merrill also urged that any program insurance should cover all program participants.

[59] The SIA stated that the costs involved to broker-dealers to switch from the current system to a system as suggested by the STAMP program would be burdensome and inequitable to broker-dealers and urged the Commission not to mandate participation in a signature guarantee program. The SIA also stated that "[i]n no regard does the [SIA] believe participation in a signature guarantee program, such as STAMP, be mandatory." The SIA urged the Commission to "more clearly provide that broker-dealers who are members of a nationally registered clearing house would automatically be considered guaranteed." Noting the formation of the Market Transactions Advisory Committee, the SIA suggested that signature guarantees is an appropriate topic for the Advisory Committee and suggests that this proposal be studied more closely by the Advisory Committee prior to its enactment. Thus, the SIA believes that the Commission approve as part of the proposal either an exemption for broker-dealers or a safe harbor for transfer agents to use the current system. As further explanation,

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Shearson Lehman Brothers,[60] and Smith Barney. These commentators were concerned that the costs to broker-dealers to switch from the current system to a signature guarantee program would be burdensome and inequitable to broker-dealers. These commentators believe that a signature guarantee program would change the industry practices concerning requirements for what constitutes "good transfers" or "good delivery" of securities and that, if adopted, it would not be operationally possible for brokers and dealers to carry out daily receipt and delivery of securities. These commentators also stated their concern that a signature guarantee program would shift liability for security registration changes and questioned whether individual firms who affix medallions would be fully liable for the security registration change.

The ICI commented that the only way mutual funds and their transfer agents could comply with the proposed rule would be the development and acceptance of a signature guarantee program. However, the ICI noted its concern with insurance coverage limits in signature guarantee programs and stated that the limits in STAMP do not appear to be adequate. The ICI also commented that the STAMP program would not provide mutual funds and mutual fund transfer agents protection against fraud.

Several commentators objected to transfer agents mandating a signature guarantee program,[61] or urged Commission involvement in approving or monitoring signature guarantee programs.[62] These commentators are concerned that enabling transfer agents to mandate participation in signature guarantee programs may lead to inequitable treatment of guarantor institutions, and specifically, smaller guarantor institutions that may provide guarantor services to accommodate their customers on an exception basis.

Six commentators encouraged the development of signature guarantee programs as proposed in Rule 17Ad-15(g) and do not believe that participation in such a program should be mandatory.[63] For example, CUNA anticipated that the key means of access to provide signature guarantees will be through acceptance in a signature guarantee program which provides insurance coverage to stock transfer agents relying upon credit union guarantors. CUNA believes that the rule as proposed has struck the right balance between encouraging, without mandating, the use of signature guarantee programs. CUNA also commented that it believes it is an absolutely essential element for credit unions that any authorized program recognize the need for reasonable pricing for those institutions that want to provide a relatively limited number of guarantees annually .

Similarly, the Alliance stated its support for the Commission's involvement in the development of a signature guarantee program similar to the STAMP and GAP programs, but believes that the rule should not allow transfer agents to accept signature guarantees only from eligible guarantor institutions that participate in a program acceptable to the transfer agent. The Alliance commented that would be "to large a loophole for allowing disparate treatment of institutions that are otherwise eligible to guarantee signatures."[64]

Nine of the commentators urged the Commission to take a more direct role in either the approval of review of signature guarantee programs.[65] For example, the U.S. League uged the Commission to take an active role in establishing the requirements for such a program and in approving the standards and procedures of such a program. The U.S. League believes that the only way to achieve both equality and efficiency is to mandate development of a uniform signature guarantee program which is administered by a central party and requiring all eligible guarantor institutions to participate in an approved signature guarantee program. The U.S. League stated that this will enable the development of universal minimum standards understood by and applicable to all. The U.S. League believes that such a program will significantly streamline the administration of the process by eliminating the signature guarantor cards and individual transactions can be directly tied to the appropriate guarantor institution.

Similarly, FDR commented that participation in a signature program should be mandatory, otherwise FDR believes that transfer agents would have to operate two systems. FDR stated that it believes transfer agents should be permitted to require participation and the role of the Commission should be limited to initial approval of the signature guarantee programs.[66]

In response to these concerns, the Commission has determined to revise proposed Rule 17Ad-15(g) to permit transfer agents to reject signature guarantees from eligible guarantors that are not members of or participants in a signature guarantee program recognized by that transfer agent, even if those guarantors otherwise meet the transfer agents standards for guarantor acceptance. To help reduce confusion during the transition, however, the Commission has also revised the proposed rule to require transfer agents to give notice to guarantor institutions before rejecting guarantees from non-member, financially responsible guarantors.

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the SIA noted: "[t]o present the proposal in any other form would be to make it inequitable for those who use the current system."

[60] Shearson urged that the proposed rule not permit transfer agents to comply with the proposed rule by accepting guarantees from a signature guarantee program. Shearson commented that it believes that such a program would shift on-going credit evaluations and monitoring to a third party which would contradict the definition of good delivery

[61] Alliance, CUNA, Langley, Pacific IBM Federal Credit Union, TCUL, and TRW.

[62] Alliance, CUNA, FDR, Navy Federal Credit Union, Orange County Federal Credit Union, Pacific IBM Employees Federal Credit Union, Professional Federal Credit Union, TCUL, and U.S. League.

[63] Alliance, CUNA, Langley, Pacific IBM Federal Credit Union, TCUL, and TRW.

[64] TCUL supported the implementation of a signature guarantee program stating that such a program would be "the best solution for all involved." However, TCUL believes transfer agents should not require participation in a program since this would "not appear to be equitable." Langley, Pacific IBM Federal Credit Union, and TRW stated that the rule should not allow transfer agents to require a credit union's participation in a program. Pacific IBM Federal Credit Union stated that it may be more costly for smaller guarantors to participate in a signature guarantee program since many small guarantors deal with one or two primary transfer agents.

[65] Alliance, CUNA, FDR, Navy Federal Credit Uion, Orange County Federal Credit Union, Pacific IBM Employees Federal Credit Union, Professional Federal Credit Union, TCUL, and U.S. League.

[66] CUNA and Pacific IBM Employees Federal Credit Union urged the Commission to monitor signature guarantee programs to ensure the equitable treatment of smaller guarantor institutions. CUNA stated that it is an essential element for credit unions that any authorized program recognize the need for reasonable pricing for those institutions that want to provide a relatively limited number of gurantees annually. Professional Federal Credit Union stated that the Commission should review all signature guarantee programs to avoid discrimination. However, Professional Federal believes that there should be no requirement for participation if outside bonding or capital is available. Navy Federal Credit Union and Orange County Federal Credit Union urged Commission involvement in review, recognition, monitoring, and enforcement of signature guarantee programs to ensure that procedures and guidelines are consistent. Navy Federal Credit Union commented that a signature guarantee program may be one means to ensure the establishment of equitable guidelines and to reduce paperwork and financial risk. TCUL stated that it believes that signature guarantee programs would be the best solution for all concerned and that the Commission should review various programs prior to approval to ensure that the programs fulfill the requirements of the proposed rule.

The Commission believes this is the best way to foster equitable treatment of eligible guarantors and at the same time facilitate the efficient transfer of securities. As explained in the Proposing Release, transfer agents for many years have exercised credit judgments in determining whether to accept guarantees in connection with securities transfers and the standard for exercising those credit judgments, for many years, has been rooted in state commercial law. For many years commercial banks and broker-dealers effectively were the only financial institutions authorized to guarantee signatures and were the only organizations that had established systems and procedures to disseminate to transfer agents "signature cards" with lists of their authorized agents, usually through organizations like the New York or American Stock Exchanges. Implicit in comments from brokers and dealers is the suggestion that other authorized guarantors should establish their own signature card dissemination services. Transfer agent commentators argue, however, that signature card systems are antiquated and cannot be the basis for efficient transfer agent operations today. Thus, transfer agent commentators argue, they must be permitted to upgrade their guarantee acceptance system for all guarantors, not just eligible guarantors whose signature cards are not now accepted. Commentators representing existing guarantor institutions, however, express concern about the cost of a new signature guarantee system and the collateral consequences of such a system.

The Commission does not believe it is appropriate for the Commission to mandate either participation in, or acceptance of, one or more specific signature guarantee programs. This could require the Commission to make, in effect, credit decisions for transfer agents and program participants. It would also require the Commission to review and regulate the design and operation of signature guarantee programs. That approach would be expensive and could stifle innovation. Requiring transfer agents to establish written standards that provide for equitable treatment without allowing transfer agents to establish uniform procedures for all guarantors also would be inappropriate given the statutory goal of efficient transfer of ownership of securities.

The Commission shares commentator concerns about the potential cost to eligible guarantors, particularly small institutions, of gaining acceptance by transfer agents generally and participation in a signature guarantee program in particular. By allowing transfer agents to designate an acceptable signature guarantee program, free market forces should keep the cost of such programs low. Nothing would prevent an organization that currently offers signature card distribution services (or any other organization, for that matter) from establishing and offering a signature guarantee program at competitive rates.

Finally, the Commission believes that the rule will further the public interest and the protection of investors. As many commentators noted, it is often the public investor who bears the costs of a rejected signature guarantee—delays in the completion of securities transfers, lost opportunities, and aggravation, to name a few. Many public investors do not have accounts with a commercial bank or a broker-dealer and yet must obtain a signature guarantee from such an institution before they can dispose of their securities. In many of those cases, the guarantor does not have a basis to know whether the person seeking a guarantee is who they claim to be.

## XI. Summary of the Final Regulatory Flexibility Analysis

On September 6, 1991, the Commission prepared an Initial Regulatory Flexibility Analysis ("IRFA") in accordance with 5 U.S.C. 603, as amended by the Regulatory Flexibility Act (the "FRA"), regarding proposed Rule 17Ad–15. No commentators specifically referred to the IRFA, however, some commentators noted that costs related to the implementation of the proposed rule might have a significant impact on smaller entities.

The Commission has prepared a Final Regulatory Flexibility Analysis ("Analysis") in accordance with 5 U.S.C. 604, as amended by the FRA, regarding Rule 17Ad–15. The Analysis notes that the Rule, while requiring transfer agents to have written standards and procedures for the acceptance of signature guarantees, is only seeking to assure the equitable treatment of eligible guarantors by requiring transfer agents to follow what the Commission believes is already required by state law. Thus, the cost to implement written standards and procedures should not be significant for transfer agents already complying with applicable state law regarding acceptance of signature guarantees.

In the Analysis, the Commission shared commentators' concerns about the potential cost to eligible guarantors, particularly small institutions, of gaining acceptance by transfer agents generally and participation in a signature guarantee program in particular. Rule 17Ad–15(g) is revised to provide that a transfer agent may reject a request for transfer because the guarantor was neither a member of nor a participant in a signature guarantee program and to permit transfer agents to accept signature guarantees from guarantors who are participants in a signature guarantee program. By allowing transfer agents to designate acceptable signature guarantee programs, free market forces should keep the cost of such programs low. Nothing would prevent an organization that currently offers signature card distribution service (or any other organization, for that matter) from establishing and offering a signature guarantee program at competitive rates.

Accordingly, the Commission believes that any cost incurred by small transfer agents and guarantor institutions would be outweighed by the benefits derived from the equitable treatment of eligible guarantor institutions, greater efficiency in the transfer of securities, and the reduced risk associated with the acceptance of signature guarantees.

A copy of the Analysis may be obtained by contacting Anthony Bosch, Esq., Division of Market Regulation, Mail Stop 5–1, 450 Fifth Street, NW., Washington, DC 20549.

## XII. Competitive Considerations

As required by Section 23(a) of the Exchange Act, the Commission has specifically considered the impact that these rules would have on competition. For the reasons discussed above, the Commission finds that any increased burden imposed, including any increase in the costs imposed on transfer agents and guarantor institutions, is outweighed by the benefits obtained from the equitable treatment of all guarantor institutions, increased efficiency of the securities transfer process, and the reduced risk associated with a guarantor's inability to meet its obligation. Thus, the Commission finds that the rules would not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act and, in particular, Section 17–A of the Exchange Act.

## XIII. Statutory Authority

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 3, 17, 17A(d), and 23(a) thereof, 15 U.S.C. 78c, 78q, 78q–1(d) and 78w(a), the Commission adopts Rule 17Ad–15.

**List of Subjects in 17 CFR Part 240**

Reporting and recordkeeping requirements, Securities.

**XIV. Text of Rule**

In accordance with the foregoing, title 17, chapter II of the Code of Federal Regulations is amended as follows:

## PART 240—AMENDED

1. The authority citation for part 240 continues to read as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77s, 77ttt, 78c, 78d, 78i, 78j, 78l, 78m, 78n, 78o, 78p, 78s, 78w, 78x, 79q, 79t, 80a-29, 80a-37, unless otherwise noted.

2. Section 240.17Ad-15 is added to read as follows:

**§ 240.17Ad-15 Signature guarantees.**

(a) *Definitions.* For purposes of this section, the following terms shall mean:

(1) Act means the Securities Exchange Act of 1934;

(2) Eligible Guarantor Institution means:

(i) Banks (as that term is defined in section 3(a) of the Federal Deposit Insurance Act [12 U.S.C. 1813(a)]);

(ii) Brokers, dealers municipal securities dealers, municipal securities brokers, government securities dealers, and government securities brokers, as those terms are defined under the Act;

(iii) Credit unions (as that term is defined in Section 19 (b)(1)(A) of the Federal Reserve Act [12 U.S.C. 461(b)]);

(iv) National securities exchanges, registered securities associations, clearing agencies, as those terms are used under the Act; and

(v) Savings associations (as that term is defined in section 3(b) of the Federal Deposit Insurance Act [12 U.S.C. 1813(b)]).

(3) Guarantee means a guarantee of the signature of the person endorsing a certificated security, or originating an instruction to transfer ownership of a security or instructions concerning transfer of securities.

(b) *Acceptance of Signature Guarantees.* A registered transfer agent shall not, directly or indirectly, engage in any activity in connection with a guarantee, including the acceptance or rejection of such guarantee, that results in the inequitable treatment of any eligible guarantor institution or a class of institutions.

(c) *Transfer agent's standards and procedures.* Every registered transfer agent shall establish:

(1) Written standards for the acceptance of guarantees of securities transfers from eligible guarantor institutions; and

(2) Procedures, including written guidelines where appropriate, to ensure that those standards are used in determining whether to accept or reject guarantees from eligible guarantor institutions. Such standards and procedures shall not establish terms and conditions (including those pertaining to financial condition) that, as written or applied, treat different classes of eligible guarantor institutions inequitably, or result in the rejection of a guarantee from an eligible guarantor institution solely because the guarantor institution is of a particular type specified in paragraphs (a)(2)(i)-(a)(2)(v) of this section.

(d) *Rejection of items presented for transfer.* (1) No registered transfer agent shall reject a request for transfer of a certificated or uncertificated security because the certificate, instruction, or documents accompanying the certificate or instruction includes an unacceptable guarantee, unless the transfer agent determines that the guarantor, if it is an eligible guarantor institution, does not satisfy the transfer agent's written standards or procedures.

(2) A registered transfer agent shall notify the guarantor and the presentor of the rejection and the reasons for the rejection within two business days after rejecting a transfer request because of a determination that the guarantor does not satisfy the transfer agent's written standards or procedures. Notification to the presentor may be accomplished by making the rejected item available to the presentor. Notification to the guarantor may be accomplished by telephone, facsimile, or ordinary mail.

(e) *Record retention.* (1) Every registered transfer agent shall maintain a copy of the standards and procedures specified in paragraph (c) of this section in an easily accessible place.

(2) Every registered transfer agent shall make available a copy of the standards and procedures specified in paragraph (c) of this section to any person requesting a copy of such standards and procedures. The registered transfer agent shall respond within three days of a request for such standards and procedures by sending the requesting party a copy of the requested transfer agent's standards and procedures.

(3) Every registered transfer agent shall maintain, for a period of three years following the date of the rejection, a record of transfers rejected, including the reason for the rejection, who the guarantor was and whether the guarantor failed to meet the transfer agent's guarantee standards.

(f) *Exclusions.* Nothing in this section shall prohibit a transfer agent from rejecting a request for transfer of a certificated or uncertificated security:

(1) For reasons unrelated to acceptance of the guarantor institution;

(2) Because the person acting on behalf of the guarantor institution is not authorized by that institution to act on its behalf, provided that the transfer agent maintains a list of people authorized to act on behalf of that guarantor institution; or

(3) Because the eligible guarantor institution of a type specified in paragraph (a)(2)(ii) of this section is neither a member of a clearing corporation nor maintains net capital of at least $100,000.

(g) *Signature guarantee program.* (1) A registered transfer agent shall be deemed to comply with paragraph (c) of this section if its standards and procedures include:

(i) Rejecting a request for transfer because the guarantor is neither a member of nor a participant in a signature guarantee program; or

(ii) Accepting a guarantee from an eligible guarantor institution who, at the time of issuing the guarantee, is a member of or participant in a signature guarantee program.

(2) Within the first six months after revising its standards and procedures to include a signature guarantee program, the transfer agent shall not reject a request for transfer because the guarantor is neither a member of nor participant in a signature guarantee program; unless the transfer agent has given that guarantor ninety days written notice of the transfer agent's intent to reject transfers with guarantees from non-participating or non-member guarantors.

(3) For purposes of paragraph (g) of this section, the term "signature guarantee program," means a program, the terms and conditions of which the transfer agent reasonably determines:

(i) To facilitate the equitable treatment of eligible guarantor institutions; and

(ii) To promote the prompt, accurate and safe transfer of securities by providing:

(A) Adequate protection to the transfer agent against risk of financial loss in the event persons have no recourse against the eligible guarantor institution; and

(B) Adequate protection to the transfer agent against the issuance of unauthorized guarantees.

Dated: January 6, 1992.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 92-570 Filed 1-9-92; 8:45 am]

BILLING CODE 8010-01-M

## 17 CFR Parts 240 and 270

**[Release No. 34-30147; IC-18467; File No. S7-23-91]**

**RIN 3235-AE38**

## Shareholder Communications Rules

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rules.

**SUMMARY:** The Commission today announced the adoption of amendments to the shareholder communications and related rules to implement provisions of the Shareholder Communications Improvement Act of 1990 ("SCIA"). The amendments, adopted substantially as proposed, require: (1) Investment companies registered under the Investment Company Act of 1940 ("Investment Company Act") to distribute information statements to shareholders in connection with a shareholder meeting where proxies, consents, or authorizations are not solicited by or on behalf of the registrant; and (2) brokers and banks that hold shares for beneficial owners of securities in nominee name to forward to the beneficial owners the proxy statements of investment companies registered under the Investment Company Act ("Investment Company Act registrants"), as well as the information statements of both Investment Company Act registrants and companies with a class of securities registered under Section 12 of the Securities Exchange Act of 1934 ("Exchange Act").

**DATES:** The amendments are effective January 10, 1992. They apply to shareholder meetings held, or corporate actions taken by consent or authorization, on or after March 31, 1992, that have a record date on or after February 10, 1992.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth M. Murphy, Office of Disclosure Policy, Division of Corporation Finance, at (202) 272-2589; with regard to investment company issues, Kathleen K. Clarke, Office of Disclosure and Adviser Regulation, Division of Investment Management, at (202) 272-2107, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** The Commission is adopting amendments to the proxy and information statement rules under the Exchange Act.[1] Specifically, the revisions affect Rules 14a-13,[2] 14b-1,[3] and 14b-2[4] of Exchange Act Regulation 14A [5] and Rules 14c-1,[6] 14c-2,[7] and 14c-7 [8] of Exchange Act Regulation 14C.[9] In addition, a corresponding amendment to Rule 20a-1 [10] under the Investment Company Act [11] is adopted.

### I. Executive Summary and Background

The Commission is adopting revisions to the proxy and information statement rules to implement amendments to Exchange Act sections 14(b)(1) [12] and 14(c) [13] enacted by the SCIA.[14] Prior to revision, there were several regulatory gaps in the rules. First, the rules required Investment Company Act registrants to distribute proxy materials [15] to shareholders, [16] but did not require them to distribute information statements to shareholders in connection with shareholder meetings not involving the solicitation of proxies [17] by the registrant.[18] Second, the rules did not require brokers and banks to forward either the proxy materials or information statements of Investment Company Act registrants to beneficial owners.[19] Third, while the rules required section 12 registrants to distribute both proxy materials and information statements to shareholders, brokers and banks were required to forward only the proxy materials to beneficial owners.[20]

The legislation eliminated these gaps in regulation of shareholder communications by authorizing the Commission to require: (1) Investment Company Act registrants to distribute information statements to shareholders in connection with shareholder meetings not involving the solicitation of proxies by the registrant; and (2) brokers and dealers ("brokers") and banks [21] to transmit to beneficial owners of securities the proxy materials and information statements of Investment Company Act registrants and the information statements of section 12 registrants.

Brokers and banks may obtain reimbursement of their reasonable costs incurred in performing the obligations imposed by the revised proxy and information statement delivery requirements.[22] The commission is not, however, adopting the proposed surcharge provision permitting banks and brokers to recoup any costs associated with implementation of the amendments, since commenters on the proposal indicated that such a provision is unnecessary. Finally, in response to commenters' remarks, the revised rules clarify that the new provision requiring Investment Company Act registrants to distribute information statements to their shareholders applies only to companies that have made a public securities offering.[23]

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[1] 15 U.S.C. 78a *et seq.*

[2] 17 CFR 240.14a-13.

[3] 17 CFR 240.14b-1.

[4] 17 CFR 240.14b-2.

[5] 17 CFR 240.14a-1 *et seq.*

[6] 17 CFR 240.14c-1.

[7] 17 CFR 240.14c-2.

[8] 17 CFR 240.14c-7.

[9] 17 CFR 240.14c-1 *et seq.*

[10] 17 CFR 270.20a-1.

[11] 15 U.S.C. 80a-1 *et seq.*

[12] 15 U.S.C. 78n(b)(1).

[13] 15 U.S.C. 78n(c).

[14] Pub. L. 101-550, 104 Stat. 2713. The SCIA amendments were enacted on November 15, 1990. The proposed rule amendments were published in Release No. 34-29562 (August 15, 1991) [56 FR 41635] ("Proposing Release"). The comments on the proposal and a summary of comments are available for inspection and copying through the Commission's Public Reference Room (File No. S7-23-91).

[15] The term "proxy materials" as used in this release refers collectively to proxy cards, consents, authorizations or requests for voting instructions, proxy or other soliciting material, and annual reports to security holders.

[16] Investment Company Act section 20(a) [15 U.S.C. 80a-20(a)] and related Rule 20a-1 cause the proxy solicitation rules adopted pursuant to Exchange Act Section 14(a) to apply to Investment Company Act registrants.

[17] The term "proxies" as used in this release refers to proxies, consents, or authorizations.

[18] Prior to the SCIA amendments, Exchange Act Section 14(c), which requires issuers to distribute information statements to shareholders in connection with a shareholder meeting where proxies, consents, or authorizations are not solicited by or on behalf of management of the issuer, pertained only to companies with a class of securities registered under Section 12 of the Exchange Act [15 U.S.C. 78*l*] ("Section 12 registrants"). Only a small proportion of investment companies are required to register under Section 12 of the Exchange Act (*i.e.*, closed-end investment companies whose shares are traded on an exchange, and business development companies).

[19] Prior to the SCIA amendments, brokers and banks were required to forward only the proxy materials of Section 12 registrants to beneficial owners pursuant to Exchange Act section 14(b)(1) and related Rules 14b-1 and 14b-2.

[20] *Id.*

[21] The term "banks" includes other institutions that may hold securities in nominee name for their customers including, without limitation, savings and loan associations and savings banks that maintain trust and customer accounts and similar entities that perform comparable fiduciary functions on behalf of customers. See Rules 14a-1(c) [17 CFR 240.14a-1(c)] and 14b-2; Release No. 34-23276 [June 5, 1986] [51 FR 20504].

[22] Rules 14a-13(b)(5) [17 CFR 240.14a-13(b)(5)], 14b-1(c)(2)(i) [17 CFR 240.14b-1(c)(2)(i)], 14b-2(c)(2)(i) [17 CFR 240.14b-2(c)(2)(i)], and 14c-7(a)(5) [17 CFR 240.14c-7(a)(5)].

[23] This limited exception has been adopted to address concerns raised by commenters on the proposed amendments that the information statement requirement should not extend to

Continued

The Commission currently is conducting a comprehensive review of its proxy rules;[24] broader issues concerning the shareholder communications and related rules will be considered in connection with the review. This release, however, is intended solely to implement the SCIA amendments. In addition, minor technical revisions have been adopted to make language throughout the shareholder communications rules consistent with the substantive amendments.

## II. Discussion of Amendments

### *A. Information Statement Requirements for Investment Companies*

The rule governing registrants' obligations to send an information statement to shareholders in connection with a shareholder meeting where proxies are not solicited by or on behalf of the registrant[25] has been amended to include Investment Company Act registrants. In this regard, the term "registrant" has been defined in the information statement rules to include Investment Company Act registrants that have made a public offering of their securities.[26] In addition, an instruction that directs Investment Company Act registrants to Exchange Act Section 14 (c) and related rules requiring information statements to be furnished to security holders in connection with shareholder meetings not involving the solicitation of proxies by the registrant has been added to the Investment Company Act rules.[27]

### *B. Transmission of Shareholder Communications*

#### 1. Broker/Bank Obligations

The Commission is adopting amendments to the shareholder communications rules to require brokers and banks to transmit to beneficial owners the proxy materials of Investment Company Act registrants and the information statements both of Investment Company Act registrants and section 12 registrants. The requirements are substantially similar to those that exist with respect to the forwarding of proxy materials prepared by Section 12 registrants. In order to implement the changes, the rules have been revised and reorganized in several respects. First, a definitional paragraph has been added to each of two rules that set forth the obligations of brokers and banks to forward shareholder communications to beneficial owners.[28] The paragraph defines the term "registrant" to mean either an investment company registered under the Investment Company Act or a section 12 registrant.[29] Second, references to information statements have been added throughout the shareholder communications rules where there previously existed references only to proxies, proxy soliciting materials and annual reports to security holders.[30] Third, the rules have been reorganized to: (a) consolidate requirements concerning brokers' and banks' obligations to disseminate proxy and information statement materials and provide registrants with beneficial owner information;[31] and (b) list exceptions to the dissemination and beneficial owner information requirements.[32] Fourth, the rules have been amended to cross-reference corresponding rules setting forth the registrants' obligations to furnish their information statements to brokers or banks.[33]

#### 2. Registrant Obligations

Pursuant to the rules, both section 12 registrants and Investment Company Act registrants must transmit information statements to their shareholders at least 20 calendar days prior to the shareholder meeting date or, in the case of action by consent or authorization, 20 calendar days prior to the earliest date on which corporate action can be taken.[34] An amendment to the information statement rules requires registrants to make inquiries of brokers and banks as to the number of beneficial owners at least 20 business days prior to the earlier of: (a) The record date for the shareholder meeting or action by written consent; or (b) the mailing date of the information statement.[35] This inquiry requirement is

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investment companies that are still in the organizational stage but have registered under the Investment Company Act because they propose to make a public offering of securities. See section 3 (c)(1) of the Investment Company Act [15 U.S.C. 80a-3(c)(1)]. Because the obligation of Investment Company Act registrants to deliver proxies to shareholders extends under Investment Company Act Rule 20a-1 to all investment companies registered under the Investment Company Act, brokers and banks would be required to forward proxy materials provided by investment companies registered under the Investment Company Act regardless of whether they had made a public offering of their securities.

[24] The first rulemaking initiative in connection with this review was issued by the Commission on June 25, 1991. See Release No. 34-29315 (June 25, 1991) [56 FR 28987].

[25] Rule 14c-2(a) [17 CFR 240.14c-2(a)].

[26] Rule 14c-1(j) [17 CFR 240.14c-1(j)].

[27] Rule 20a-1. Pursuant to the amendments, Investment Company Act registrants must refer to Schedule 14C under the Exchange Act [17 CFR 240.14c-101] to determine the information required to be included in an information statement. Among other things, Schedule 14C requires an information statement to include applicable information responsive to certain proxy statement items of Schedule 14A under the Exchange Act [17 CFR 240.14a-101]. Investment Company Act registrants also should include in an information statement all of the applicable information required to be included in a proxy statement by Rules 20a-2 and 20a-3 under the Investment Company Act [17 CFR 270.20a-2 and 270.20a-3].

[28] Rules 14b-1(a) [17 CFR 240.14b-1(a)] and 14b-2(a) [17 CFR 240.14b-2(a)].

[29] The new definitional paragraph also states that, unless the context otherwise requires, all terms used in Rules 14b-1 and 14b-2 shall have the same meaning as in the Exchange Act and, with respect to proxy materials and information statements, as in Rules 14a-1 and 14c-1, respectively, thereunder. In addition, Rule 14b-2(a) states that the term "bank" means a bank, association, or other entity that exercises fiduciary powers. It further states that the term "beneficial owner" includes any person who has or shares, pursuant to an instrument, agreement, or otherwise the power to vote, or to direct the voting, of a security. The statement explaining use of the term "bank" tracks the previously existing lead-in language to Rule 14b-2. The beneficial owner definition previously was included in paragraph (j) of the rule [17 CFR 240.14-2(j)].

[30] Rules 14b-1(b)(2) [17 CFR 240.14b-1(b)(2)], 14b-1(c)(1)(i) [17 CFR 240.14b-1(c)(1)(i)], 14b-2(b)(3) [17 CFR 240.14b-2(b)(3)], and 14b-2(c)(1)(i) [17 CFR 240.14b-2(c)(1)(i)].

[31] The consolidated dissemination and beneficial owner information requirements, as applicable to brokers, are reflected in Rule 14b-1(b) [17 CFR 240.14b-1(b)]. Similar requirements applicable to banks are reflected in Rule 14b-2(b) [17 CFR 240.14b-2(b)].

[32] The exceptions to banks' and brokers' forwarding requirements are set forth in new paragraph (c) to Rules 14b-1 and 14b-2. These exceptions applied under the rules prior to revision and relate to: (i) beneficial owners of exempt employee benefit plan securities (with respect to brokers, Rule 14b-1(d) [17 CFR 240.14b-1(d)], and with respect to banks, Rule 14b-2(g) [17 CFR 240.14b-2(g)]); (ii) provision of assurance of reimbursement of reasonable expenses (with respect to brokers, Rule 14b-1(e)(1) [17 CFR 240.14b-1(e)(1)], and with respect to banks, Rule 14b-2(f)(1) [17 CFR 240.14b-2(f)(1)]); and (iii) mailing of annual reports where the registrant assumes this obligation for non-objecting or consenting beneficial owners (with respect to brokers, Rule 14b-1(e)(2) [17 CFR 240.14b-1(e)(2)], and with respect to banks, Rule 14b-2(f)(2) [17 CFR 240.14b-2(f)(2)]). Corresponding changes have been made where these redesignated provisions are cross-referenced in Rules 14a-13 and 14c-7.

[33] Specifically, cross-references have been added to Rules 14b-1(b)(1) [17 CFR 240.14b-1(b)(1)], 14b-1(c)(2)(ii) [17 CFR 240.14b-1(c)(2)(ii)], 14b-2(b)(1)(i) [17 CFR 240.14b-2(b)(1)(i)], 14b-2(b)(1)(ii) [17 CFR 240.14b-2(b)(1)(ii)], and 14b-2(b)(1)(ii)(B) [17 CFR 240.14b-2(b)(1)(ii)(B)].

[34] Rule 14c-2.

[35] This requirement has been incorporated in Rule 14c-7(a) [17 CFR 240.14c-7(a)] by the addition of a new paragraph (3) (old paragraphs (3) and (4) have been redesignated as paragraphs (4) and (5)). In addition, Note 3 to renumbered paragraph (4) has been revised to reference the obligations or brokers and banks to transmit information statements to beneficial owners, as required under the amended rules. Rule 14c-7 also has been modified to require that registrants inquire of brokers and banks whether an agent has been designated to act on their behalf for purposes of conforming the rule to a similar requirement in Rule 14a-13(a)(1)(C) [17 CFR 240.14a-13(a)(1)(C)] under the proxy rules. Rule 14c-7(a)(1)(i)(C) [17 CFR 240.14c-7(a)(1)(i)(C)].

comparable to the requirement already included in the proxy rules,[36] and is equally important to the information statement dissemination process.

*C. Reimbursement of Costs for Delivery of Registrant Proxy Materials and Information Statements*

As under the former rules, registrants must reimburse brokers and banks for reasonable expenses associated with the transmittal of proxy materials and information statements to beneficial owners.[37] The rules of the self-regulatory organizations provide for specific reimbursement rates with respect to brokers.[38] Although banks are not subject to comparable self-regulatory organization rules, they may rely on a non-exclusive safe-harbor provision providing that amounts charged registrants by banks for forwarding shareholder communications to beneficial owners are reasonable if they do not exceed amounts permitted to be charged by brokers.[39]

Based on commenters' remarks, the revised rules do not authorize brokers and banks to seek reimbursement of a proposed surcharge amount in connection with implementation of procedures facilitating compliance with the new requirements. The commenters indicated that, as a result of self-regulatory organization requirements and common practice, brokers and banks currently transmit information statements to the beneficial owners of securities of Investment Company Act registrants and have developed processing systems that include the beneficial owner information. The commenters indicated that it is unlikely that brokers and banks will have to modify their systems to a significant extent in order to transmit proxy materials and information statements to the beneficial owners of Investment Company Act registrants or to determine whether such beneficial owners object or consent to disclosure of their identity. Although a specific surcharge provision has not been adopted, the reasonable expenses provision in the proxy and information statement rules [40] will permit reimbursement of the costs incurred by brokers and banks in the uncommon instances where they must modify their procedures to facilitate compliance with the revised rules.[41]

The Commission also has not adopted a waiver procedure that, under limited circumstances, would have enabled brokers and banks to seek permission to defer compliance with the new requirements. Commenters indicated that such a deferral procedure is unnecessary.

## III. Cost-Benefit Analysis

In the Proposing Release, commenters were asked to provide information that would assist the Commission in evaluating the costs and benefits that may result from the proposed changes to the shareholder communications, information statement, and related rules. Two commenters expressed general remarks concerning the anticipated costs of the proposed amendments. One suggested that the additional costs of transmitting shareholder communications to beneficial owners who refuse to disclose their names and addresses to registrants should be borne by the beneficial owners themselves. The other stated that the expense of mailing investment company material to beneficial owners would be substantial.

Four commenters expressed specific remarks on the proposed surcharge that has not been adopted by the Commission. All four of the commenters opposed the surcharge on grounds that most brokers and banks have established shareholder communication distribution procedures that can be readily and inexpensively adapted to accommodate the distribution of investment company materials.

The majority of the commenters expressed general support for the proposed amendments and indicated that they were an appropriate means to implement the changes made by the SCIA. The Commission believes that the benefits to be derived from enhanced shareholder communications outweigh the additional costs that will be incurred by the registrants as a result of the new requirements.

## IV. Final Regulatory Flexibility Analysis

A final regulatory flexibility analysis has been prepared regarding the amendments in accordance with 5 U.S.C. 604. A copy of the analysis may be obtained by contacting Elizabeth M. Murphy, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. The corresponding Initial Regulatory Flexibility Analysis appears at 56 FR 41635 (Rel. No. 34-29562).

## V. Effective Date

These amendments are effective January 10, 1992. They apply to shareholder meetings held, or corporate action taken by consent or authorization, on or after March 31, 1992, that have a record date on or after February 10, 1992. The early effective date is necessary since the shareholder communication rules require registrants to make inquiries of brokers and banks 20 business days prior to the record date for a shareholder meeting or corporate action. The Administrative Procedure Act permits effectiveness in fewer than 30 days after publication, *inter alia*, "as provided by the agency for good cause found and published with the rule." [42]

To assure that all shareholders receive the proxy and other material in a prompt and orderly manner to

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[36] Rule 14a-13(a)(3) [17 CFR 240.14a-13(a)(3)]. The new notice requirement is different from that in Rule 14a-13(a)(3) for proxy materials to the extent necessary to conform to the timing requirements for the mailing of information statements. With respect to timing requirements, the Commission's recently adopted rules with respect to limited partnership roll-up transactions that include a minimum proxy solicitation and information statement transmittal period of 60 calendar days prior to a meeting for the earliest date of partnership action by consent, or, if shorter, the maximum period permitted under applicable state law. Release No. 34-29883 (Oct. 30, 1991) [56 FR 57237].

[37] Rules 14a-13(a)(5) [17 CFR 240.14a-13(a)(5)], 14a-13(b)(5), [17 CFR 240.14a-13(b)(5)], 14c-7(a)(5) [17 CFR 240.14c-7(a)(5)], and 14c-7(b)(5) [17 CFR 240.14c-7(b)(5)]. Corresponding reimbursement provisions appear in the rules applicable to brokers and banks and provide that there is no obligation to transmit such materials or to provide beneficial owner information if the broker or bank does not receive assurance of reimbursement of reasonable expenses. Rules 14b-1(c)(2)(i) and 14b-2(c)(2)(i).

[38] The rules of the self-regulatory organizations, approved by the Commission pursuant to Section 19(b) of the Exchange Act [15 U.S.C. 78s(b)], provide for approved rates of reimbursement of member organizations for all out-of-pocket expenses incurred in connection with proxy solicitations; for example, in connection with a routine annual meeting, the rates are $.60 for each set of proxy material plus postage. Am. Stock Ex. Guide (CCH) ¶ 9528.80 at 2716 through 2718 (Rule 576); 2 N.Y.S.E. Guide (CCH) ¶ 2451.90 at 3808 (Rule 451); NASD Manual (CCH) ¶ 2151 at 2039 (Section 1 of Rules of Fair Practice). These rules included a surcharge, adopted in 1985 and effective for the first two annual meetings after March 28, 1985 ($.20 for each set of proxy materials distributed the first year and $.185 for each set distributed the second year) that enabled brokers to recoup the start-up costs associated with the implementation of the rules requiring brokers to identify non-objecting beneficial owners.

[39] Rule 14b-2(c)(2). The safe-harbor was adopted in 1986 in conjunction with adoption of the shareholder communications rules applicable to banks. In the release establishing the safe-harbor, the Commission also stated that the surcharge approved for brokers would be included in the reasonable reimbursable expenses of banks. Release No. 34-23847 (December 9, 1986) [51 FR 44627].

[40] Rules 14b-1(c)(2) and 14b-2(c)(3) [17 CFR 240.14b-1(c)(2) and 240.14b-2(c)(3)]. Reasonable expenses include both direct and indirect costs incurred in performing the obligations imposed by Rule 14b-1(b)(2) and (b)(3) [17 CFR 240.14b-1(b)(3)] and by Rule 14b-2(b)(2), (b)(3) and (b)(4) [17 CFR 240.14b-2(b)(2), 240.14b-(b)(3), and 240.14b-2(b)(4)].

[41] The surcharge amounts referred to in n.38, *supra*, may serve as a useful reference in establishing the "reasonableness" of any requested cost reimbursement.

[42] 5 U.S.C. 553(d)(3).

facilitate an informed shareholder vote, it is essential that the revised rules be effective for as great as possible a portion of shareholder meetings or actions taken by consent or authorization in the 1992 proxy season. In addition, the Commission's experience and commenters' remarks indicate that a distribution structure exists to permit compliance with the rules without undue burden or cost on issuers or others.

## VI. Statutory Basis for Rules

The amendments to the proxy and information statement rules are being adopted pursuant to Exchange Act Sections 14 and 23(a). The amendment to the investment company rules is being adopted pursuant to Investment Company Act Sections 20(a) and 38(a).

## List of Subjects in 17 CFR Parts 240 and 270

Reporting and recordkeeping requirements, Securities, Investment companies.

## VII. Text of the Rules

In accordance with the foregoing, title 17, chapter II of the Code of Federal Regulations is amended as follows:

## PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77s, 77ttt, 78c, 78d, 78i, 78j, 78l, 78m, 78n, 78o, 78p, 78s, 78w, 78x, 79q, 79t, 80a-29, 80a-37, unless otherwise noted.

2. By amending § 240.14a-13 to revise Note 2 to paragraph (a) to read as follows:

**§ 240.14a-13 Obligation of registrants in communicating with beneficial owners.**

(a) * * *

**Note 2:** The attention of registrants is called to the fact that each broker, dealer, bank, association, and other entity that exercises fiduciary powers has an obligation pursuant to § 240.14b-1 and § 240.14b-2 (except as provided therein with respect to exempt employee benefit plan securities held in nominee name) and, with respect to brokers and dealers, applicable self-regulatory organization requirements to obtain and forward, within the time periods prescribed therein, (a) proxies (or in lieu thereof requests for voting instructions) and proxy soliciting materials to beneficial owners on whose behalf it holds securities, and (b) annual reports to security holders to beneficial owners on whose behalf it holds securities, unless the registrant has notified the record holder or respondent bank that it has assumed responsibility to mail such material to beneficial owners whose names, addresses, and securities positions are disclosed pursuant to § 240.14b-1(b)(3) and § 240.14b-2(b)(4)(ii) and (iii).

* * * * *

**§ 240.14a-13 [Amended]**

3. By further amending § 240.14a-13 as follows:

(A) In paragraph (a)(1)(i)(C) remove the reference to "§ 240.14b-1(c) or § 240.14b-2(e)(2) and (3)" and add in its place "§ 240.14b-1(b)(3) or § 240.14b-2(b)(4)(ii) and (iii)";

(B) In paragraphs (a)(1)(ii)(A), the introductory text of (b), and (c) remove the reference to "§ 240.14b-1(c) and § 240.14b-2(e)(2) and (3)" and add in its place "§ 240.14b-1(b)(3) and § 240.14b-2(b)(4)(ii) and (iii)";

(C) In paragraph (a)(2) remove the reference to "§ 240.14b-2(a)(1)" and add in its place "§ 240.14b-2(b)(1)(i)"; and

(D) In paragraph (b)(1) remove the reference to "§ 240.14b-2(e)(1)" and add in its place "§ 240.14b-2(b)(4)(i)".

4. By revising § 240.14b-1 to read as follows:

**§ 240.14b-1 Obligation of registered brokers and dealers in connection with the prompt forwarding of certain communications to beneficial owners.**

(a) *Definitions.* Unless the context otherwise requires, all terms used in this section shall have the same meanings as in the Act and, with respect to proxy soliciting material, as in § 240.14a-1 thereunder and, with respect to information statements, as in § 240.14c-1 thereunder. In addition, as used in this section, the term "registrant" means:

(1) The issuer of a class of securities registered pursuant to section 12 of the Act; or

(2) An investment company registered under the Investment Company Act of 1940.

(b) *Dissemination and beneficial owner information requirements.* A broker or dealer registered under Section 15 of the Act shall comply with the following requirements for disseminating certain communications to beneficial owners and providing beneficial owner information to registrants.

(1) The broker or dealer shall respond, by first class mail or other equally prompt means, directly to the registrant no later than seven business days after the date it receives an inquiry made in accordance with § 240.14a-13(a) or § 240.14c-7(a) by indicting, by means of a search card or otherwise:

(i) The approximate number of customers of the broker or dealer who are beneficial owners of the registrant's securities that are held of record by the broker, dealer, or its nominee;

(ii) The number of customers of the broker or dealer who are beneficial owners of the registrant's securities who have objected to disclosure of their names, addresses,and securities positions if the registrant has indicated, pursuant to § 240.14a-13(a)(1)(ii)(A) or § 240.14c-7(a)(1)(ii)(A), that it will distribute the annual report to security holders to beneficial owners of its securities whose names, addresses and securities positions are disclosed pursuant to paragraph (b)(3) of this section; and

(iii) The identity of the designated agent of the broker or dealer, if any, acting on its behalf in fulfilling its obligations under paragraph (b)(3) of this section; *Provided, however,* that if the broker or dealer has informed the registrant that a designated office(s) or department(s) is to receive such inquiries, receipt for purposes of paragraph (b)(1) of this section shall mean receipt by such designated office(s) or department(s).

(2) The broker or dealer shall, upon receipt of the proxy, other proxy soliciting material, information statement, and/or annual reports to security holders, forward such materials to its customers who are beneficial owners of the registrant's securities no later than five business days after receipt of the proxy material, information statement or annual reports.

(3) The broker or dealer shall, through its agent or directly:

(i) Provide the registrant, upon the registrant's request, with the names, addresses, and securities positions, compiled as of a date specified in the registrant's request which is no earlier than five business days after the date the registrant's request is received, of its customers who are beneficial owners of the registrant's securities and who have not objected to disclosure of such information; *Provided , however,* that if the broker or dealer has informed the registrant that a designated office(s) or department(s) is to receive such requests, receipt shall mean receipt by such designated office(s) or department(s); and

(ii) Transmit the data specified in paragraph (b)(3)(i) of this section to the registrant no later than five business days after the record date or other date specified by the registrant.

**Note 1:** Where a broker or dealer employs a designated agent to act on its behalf in performing the obligations imposed on the broker or dealer by paragraph (b)(3) of this section, the five business day time period for determining the date as of which the beneficial owner information is to be compiled is calculated from the date the

designated agent receives the registrant's request. In complying with the registrant's request for beneficial owner information under paragraph (b)(3) of this section, a broker or dealer need only supply the registrant with the names, addresses, and securities positions of non-objecting beneficial owners.

**Note 2:** If a broker or dealer receives a registrant's request less than five business days before the requested compilation date, it must provide a list compiled as of a date that is no more than five business days after receipt and transmit the list within five business days after the compilation date.

(c) *Exceptions to dissemination and beneficial owner information requirements.* A broker or dealer registered under section 15 of the Act shall be subject to the following with respect to its dissemination and beneficial owner information requirements.

(1) With regard to beneficial owners of exempt employee benefit plan securities, the broker or dealer shall:

(i) Not include information in its response pursuant to paragraph (b)(1) of this section or forward proxies (or in lieu thereof requests for voting instructions), proxy soliciting material, information statements, or annual reports to security holders pursuant to paragraph (b)(2) of this section to such beneficial owners; and

(ii) Not include in its response, pursuant to paragraph (b)(3) of this section, data concerning such beneficial owners.

(2) A broker or dealer need not satisfy:

(i) Its obligations under paragraphs (b)(2) and (b)(3) of this section if a registrant does not provide assurance of reimbursement of the broker's or dealer's reasonable expenses, both direct and indirect, incurred in connection with performing the obligations imposed by paragraphs (b)(2) and (b)(3) of this section; or

(ii) Its obligation under paragraph (b)(2) of this section to forward annual reports to non-objecting beneficial owners identified by the broker or dealer, through its agent or directly, pursuant to paragraph (b)(3) of this section if the registrant notifies the broker or dealer pursuant to § 240.14a–13(c) or § 240.14c–7(c) that the registrant will mail the annual report to such non-objecting beneficial owners identified by the broker or dealer and delivered in a list to the registrant pursuant to paragraph (b)(3) of this section.

5. By revising § 240.14b–2 to read as follows:

**§ 240.14b–2 Obligation of banks, associations and other entities that exercise fiduciary powers in connection with the prompt forwarding of certain communications to beneficial owners.**

(a) *Definitions.* Unless the context otherwise requires, all terms used in this section shall have the same meanings as in the Act and, with respect to proxy soliciting material, as in § 240.14a–1 thereunder and, with respect to information statements, as in § 240.14c–1 thereunder. In addition, as used in this section, the following terms shall apply:

(1) The term "bank" means a bank, association, or other entity that exercises fiduciary powers.

(2) The term"beneficial owner" includes any person who has or shares, pursuant to an instrument, agreement, or otherwise, the power to vote, or to direct the voting of a security.

**Note 1:** If more than one person shares voting power, the provisions of the instrument creating that voting power shall govern with respect to whether consent to disclosure of beneficial owner information has been given.

**Note 2:** If more than one person shares voting power or if the instrument creating that voting power provides that such power shall be exercised by different persons depending on the nature of the corporate action involved, all persons entitled to exercise such power shall be deemed beneficial owners; *Provided, however,* that only one such beneficial owner need be designated among the beneficial owners to receive proxies or requests for voting instructions, other proxy soliciting material, information statements, and/or annual reports to security holders, if the person so designated assumes the obligation to disseminate, in a timely manner, such materials to the other beneficial owners.

(3) The term "registrant" means:

(i) The issuer of a class of securities registered pursuant to section 12 of the Act; or

(ii) An investment company registered under the Investment Company Act of 1940.

(b) *Dissemination and beneficial owner information requirements.* A bank shall comply with the following requirements for disseminating certain communications to beneficial owners and providing beneficial owner information to registrants.

(1) The bank shall: (1) Respond, by first class mail or other equally prompt means, directly to the registrant, no later than one business day after the date it receives an inquiry made in accordance with § 240.14a–13(a) or § 240.14c–7(a) by indicating the name and address of each of its respondent banks that holds the registrant's securities on behalf of beneficial owners, if any; and

(ii) Respond, by first class mail or other equally prompt means, directly to the registrant no later than seven business days after the date it receives an inquiry made in accordance with § 240.14a–13(a) or § 240.14c–7(a) by indicating, by means of a search card or otherwise:

(A) The approximate number of customers of the bank who are beneficial owners of the registrant's securities that are held of record by the bank or its nominee;

(B) If the registrant has indicated, pursuant to § 240.14a–13(a)(1)(ii)(A) or § 240.14c–7(a)(1)(ii)(A), that it will distribute the annual report to security holders to beneficial owners of its securities whose names, addresses, and securities positions are disclosed pursuant to paragraphs (b)(4) (ii) and (iii) of this section:

(*1*) With respect to customer accounts opened on or before December 28, 1986, the number of beneficial owners of the registrant's securities who have affirmatively consented to disclosure of their names, addresses, and securities positions; and

(*2*) With respect to customer accounts opened after December 28, 1986, the number of beneficial owners of the registrant's securities who have not objected to disclosure of their names, addresses, and securities positions; and

(C) The identity of its designated agent, if any, acting on its behalf in fulfilling its obligations under paragraphs (b)(4) (ii) and (iii) of this section;

*Provided, however,* that, if the bank or respondent bank has informed the registrant that a designated office(s) or department(s) is to receive such inquiries, receipt for purposes of paragraphs (b)(1) (i) and (ii) of this section shall mean receipt by such designated office(s) or department(s).

(2) Where proxies are solicited, the bank shall, within five business days after the record date:

(i) Execute an omnibus proxy, including a power of substitution, in favor of its respondent banks and forward such proxy to the registrant; and

(ii) Furnish a notice to each respondent bank in whose favor an omnibus proxy has been executed that it has executed such a proxy, including a power of substitution, in its favor pursuant to paragraph (b)(2)(i) of this section.

(3) Upon receipt of the proxy, other proxy soliciting material, information statement, and/or annual reports to security holders, the bank shall forward such materials to each beneficial owner

on whose behalf it holds securities, no later than five business days after the date it receives such material and, where a proxy is solicited, the bank shall forward, with the other proxy soliciting material and/or the annual report, either:

(i) A properly executed proxy:

(A) Indicating the number of securities held for such beneficial owner;

(B) Bearing the beneficial owner's account number or other form of identification, together with instructions as to the procedures to vote the securities;

(C) Briefly stating which other proxies, if any, are required to permit securities to be voted under the terms of the instrument creating that voting power or applicable state law; and

(D) Being accompanied by an envelope addressed to the registrant or its agent, if not provided by the registrant; or

(ii) A request for voting instructions (for which registrant's form of proxy may be used and which shall be voted by the record holder bank or respondent bank in accordance with the instructions received), together with an envelope addressed to the record holder bank or respondent bank.

(4) The bank shall:

(i) Respond, by first class mail or other equally prompt means, directly to the registrant no later than one business day after the date it receives an inquiry made in accordance with § 240.14a–13(b)(1) or § 240.14c–7(b)(1) by indicating the name and address of each of its respondent banks that holds the registrant's securities on behalf of beneficial owners, if any;

(ii) Through its agent or directly, provide the registrant, upon the registrant's request, and within the time specified in paragraph (b)(4)(iii) of this section, with the names, addresses, and securities position, compiled as of a date specified in the registrant's request which is no earlier than five business days after the date the registrant's request is received, of:

(A) With respect to customer accounts opened on or before December 28, 1986, beneficial owners of the registrant's securities on whose behalf it holds securities who have consented affirmatively to disclosure of such information, subject to paragraph (b)(5) of this section; and

(B) With respect to customer accounts opened after December 28, 1986, beneficial owners of the registrant's securities on whose behalf it holds securities who have not objected to disclosure of such information;

*Provided, however,* that if the record holder bank or respondent bank has informed the registrant that a designated office(s) or department(s) is to receive such requests, receipt for purposes of paragraphs (b)(4) (i) and (ii) of this section shall mean receipt by such designated office(s) or department(s); and

(iii) Through its agent or directly, transmit the data specified in paragraph (b)(4)(ii) of this section to the registrant no later than five business days after the date specified by the registrant.

**Note 1:** Where a record holder bank or respondent bank employs a designated agent to act on its behalf in performing the obligations imposed on it by paragraphs (b)(4) (ii) and (iii) of this section, the five business day time period for determining the date as of which the beneficial owner information is to be compiled is calculated from the date the designated agent receives the registrant's request. In complying with the registrant's request for beneficial owner information under paragraphs (b)(4) (ii) and (iii) of this section, a record holder bank or respondent bank need only supply the registrant with the names, addresses and securities positions of affirmatively consenting and non-objecting beneficial owners.

**Note 2:** If a record holder bank or respondent bank receives a registrant's request less than five business days before the requested compilation date, it must provide a list compiled as of a date that is no more than five business days after receipt and transmit the list within five business days after the compilation date.

(5) For customer accounts opened on or before December 28, 1986, unless the bank has made a good faith effort to obtain affirmative consent to disclosure of beneficial owner information pursuant to paragraph (b)(4)(ii) of this section, the bank shall provide such information as to beneficial owners who do not object to disclosure of such information. A good faith effort to obtain affirmative consent to disclosure of beneficial owner information shall include, but shall not be limited to, making an inquiry:

(i) Phrased in neutral language, explaining the purpose of the disclosure and the limitations on the registrant's use thereof;

(ii) Either in at least one mailing separate from other account mailings or in repeated mailings; and

(iii) In a mailing that includes a return card, postage paid enclosure.

(c) *Exceptions to dissemination and beneficial owner information requirements.* The bank shall be subject to the following respect to its dissemination and beneficial owner requirements.

(1) With regard to beneficial owners of exempt employee benefit plan securities, the bank shall not:

(i) Include information in its response pursuant to paragraph (b)(1) of this section; or forward proxies (or in lieu thereof requests for voting instructions), proxy soliciting material, information statements, or annual reports to security holders pursuant to paragraph (b)(3) of this section to such beneficial owners; or

(ii) Include in its response pursuant to paragraphs (b)(4) and (b)(5) of this section data concerning such beneficial owners.

(2) The bank need not satisfy:

(i) Its obligations under paragraphs (b)(2), (b)(3), and (b)(4) of this section if a registrant does not provide assurance of reimbursement of its reasonable expenses, both direct and indirect, incurred in connection with performing the obligations imposed by paragraphs (b)(2), (b)(3), and (b)(4) of this section; or

(ii) Its obligation under paragraph (b)(3) of this section to forward annual reports to consenting and non-objecting beneficial owners identified pursuant to paragraphs (b)(4) (ii) and (iii) of this section if the registrant notifies the record holder bank or respondent bank, pursuant to § 240.14a–13(c) or § 240.14c–7(c), that the registrant will mail the annual report to beneficial owners whose names addresses and securities positions are disclosed pursuant to paragraphs (b)(4) (ii) and (iii) of this section.

(3) For the purposes of determining the fees which may be charged to registrants pursuant to § 240.14a–13(b)(5), § 240.14c–7(a)(5), and paragraph (c)(2) of this section for performing obligations under paragraphs (b)(2), (b)(3), and (b)(4) of this section, an amount no greater than that permitted to be charged by brokers or dealers for reimbursement of their reasonable expenses, both direct and indirect, incurred in connection with performing the obligations imposed by paragraphs (b)(2) and (b)(3) of § 240.14b–1, shall be deemed to be reasonable.

6. By amending § 240.14c–1 to revise paragraph (j) to read as follows:

**§ 240.14c–1 Definitions.**

* * * * *

(j) *Registrant.* The term "registrant" means:

(1) The issuer of a class of securities registered pursuant to section 12 of the Act; or

(2) An investment company registered under the Investment Company Act of 1940 that has made a public offering of its securities.

* * * * *

7. By amending § 240.14c–2 to revise the introductory text of paragraph (a) to read as follows:

**§ 240.14c–2 Distribution of information statement.**

(a) In connection with every annual or other meeting of security holders, including the taking of corporate action by the written authorization or consent of security holders, the registrant shall transmit a written information statement containing the information specified in Schedule 14C (§ 240.14c–101) or written information statements included in registration statements filed under the Securities Act of 1933 on Form S–4 or F–4 (§ 239.25 or § 239.34 of this chapter) or Form N–14 (§ 239.23 of this chapter), and containing the information specified in such form, to every security holder of the class that is entitled to vote or give an authorization or consent in regard to any matter to be acted upon and from whom a proxy, authorization or consent is not solicited on behalf of the registrant pursuant to section 14(a) of the Act, *Provided, however,* That:

* * * * *

8. By amending § 240.14c–7 to remove the "and" after paragraph (a)(1)(i)(B); to redesignate paragraph (a)(1)(i)(C) as paragraph (a)(1)(i)(D) and to add a new paragraph (a)(1)(i)(C); to redesignate paragraphs (a)(3) and (a)(4) as (a)(4) and (a)(5) and to add a new paragraph (a)(3); and to revise Note 3 to paragraph (a) to read as follows:

**§ 240.14c–7 Providing copies of material for certain beneficial owners.**

(a) * * *

(1) * * *

(i) * * *

(C) If the record holder or respondent bank has an obligation under § 240.14b–1(b)(3) or § 240.14b–2(b)(4) (ii) and (iii), whether an agent has been designated to act on its behalf in fulfilling such obligation, and, if so, the name and address of such agent; and

* * * * *

(3) Make the inquiry required by paragraph (a)(1) of this section on the earlier of:

(i) At least 20 business days prior to the record date of the meeting of security holders or the record date of written consents in lieu of a meeting; or

(ii) At least 20 business days prior to the date the information statement is required to be sent or given pursuant to § 240.14c–2(b);

*Provided, however,* That, if a record holder or respondent bank has informed the registrant that a designated office(s) or department(s) is to receive such inquiries, the inquiry shall be made to such designated office(s) or department(s);

* * * * *

**Note 3:** The attention of registrants is called to the fact that each broker, dealer, bank, association, and other entity that exercises fiduciary powers has an obligation pursuant to § 240.14b–1 and § 240.14b–2 (except as provided therein with respect to exempt employee benefit plan securities held in nominee name) and, with respect to brokers and dealers, applicable self-regulatory organization requirements to obtain and forward, within the time periods prescribed therein, (a) information statements to beneficial owners on whose behalf it holds securities, and (b) annual reports to security holders to beneficial owners on whose behalf it holds securities, unless the registrant has notified the record holder or respondent bank that it has assumed responsibility to mail such material to beneficial owners whose names, addresses, and securities positions are disclosed pursuant to § 240.14b–1(b)(3) and § 240.14b–2(b)(4) (ii) and (iii).

* * * * *

9. By further amending § 240.14c–7 as follows:

(A) In paragraphs (a)(1)(ii)(A), the introductory text of (b), and (c) remove the reference to "§ 240.14b–1(c) and § 240.14b–2(e) (2) and (3)" and add in its place "§ 240.14b–1(b)(3) and § 240.14b–2(b)(4) (ii) and (iii)";

(B) In paragraph (a)(2) remove the reference to "§ 240.14b–2(a)(1)" and add in its place "§ 240.14b–2(b)(1)(i)"; and

(C) In paragraph (b)(1) remove the reference to "§ 240.14b–2(e)(1)" and add in its place "§ 240.14b–2(b)(4)(i)".

## PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

10. The authority citation for part 270 continues to read as follows:

**Authority:** 15 U.S.C. 80a–1 *et seq.*, 80a–37. 80a–39 unless otherwise noted;

* * * * *

11. By amending § 270.20a–1 to add an instruction at the end of paragraph (c) to read as follows:

**§ 270.20a–1 Solicitation of proxies, consents and authorizations.**

* * * * *

*Instruction.* Registrants that have made a public offering of securities and that hold security holder votes for which proxies, consents, or authorizations are not being solicited pursuant to the requirements of this section should refer to section 14(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(c)) and the information statement requirements set forth in the rules thereunder.

Dated: January 6, 1992.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 92–533 Filed 1–9–92; 8:45 am]

BILLING CODE 8010–01–M

## DEPARTMENT OF LABOR

## Wage and Hour Division

## 29 CFR Part 510

## Implementation of the Minimum Wage Provisions of the Fair Labor Standards Amendments of 1989 in Puerto Rico

**AGENCY:** Wage and Hour Division, Labor.

**ACTION:** Amendment to interim final rule.

**SUMMARY:** On March 30, 1990, an interim final rule was published in the **Federal Register** that, among other things, implemented the minimum wage provisions of the 1989 Amendments to the Fair Labor Standards Act (FLSA) in the Commonwealth of Puerto Rico. These provisions of the Amendments allow, under certain conditions, extended phase-in perionds in Puerto Rico for the minimum wage increases otherwise called for in the Amendments. The interim final rule listed industries in Puerto Rico according to appropriate Standard Industrial Classification Manual codes and specified, where appropriate, the applicable phase-in period or tier for each industry.

Tiers for certain industries were not listed to conform to existing policies and practices of the U.S. Bureau of Labor Statistics and the Commonwealth of Puerto Rico that publish industry data for other purposes. Such data are not ordinarily published in order to protect the confidentiality of the data provided by employers in industries with fewer than three reporting employers. However, for purposes of implementing the provisions of the 1989 Amendments in Puerto Rico, special efforts were undertaken to obtain waivers of confidentiality from employers in those industries for which data are not ordinarily published.

This amendment to the final rule reflects those industries in which all employers have provided waivers of confidentiality. The Department of Labor has elected to publish applicable tiers for these industries as an amendment to the interim final rule rather than wait for publication of the final rule in order to make the relief provided for employers in Puerto Rico as a part of the 1989 FLSA Amendments

available as soon as possible. This document also reflects those industries in which one or more employers has specifically refused to waive confidentiality. Such industries are noted by a "b." A similar supplemental list was published on September 27, 1990.

In publishing the September 27, 1990, amendment, the Department incorrectly identified SIC Code 3821 as Laboratory apparatus and analytical, optical, measuring, and controlling instruments. The correct title is Laboratory apparatus and furniture. The Department takes this opportunity to make that correction.

**EFFECTIVE DATE:** This amendment is effective on January 10, 1992.

**FOR FURTHER INFORMATION CONTACT:** Howard B. Ostmann, Chief, Branch of Special Employment, Wage and Hour Division, U.S. Department of Labor, room S–3516, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523–8727. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:**

## I. Background

On March 30, 1990, interim final regulations were published in the **Federal Register** (55 FR 12114) that, among other things, implemented the minimum wage provisions of the 1989 Amendments to the Fair Labor Standards Act (FLSA) in Puerto Rico. That document included a listing of industries in Puerto Rico classified according to categories established by the Standard Industrial Classification (SIC) Manual, 1987, indicating the applicable minimum wage level, or tier, for most industries listed. However, in preparing the notice, the Department withheld tier designation for those industry classifications in which there were fewer than three establishments responding to the survey (non-manufacturing) or census (manufacturing) that was used to establish the appropriate minimum wage rate. Tier designations were also withheld, in the case of non-manufacturing, where one responding employer had more than 80 percent of the employment in the category. This was for the purpose of protecting the confidentiality of wage data and conformed to existing policies and practices of the U.S. Bureau of Labor Statistics and the Commonwealth of Puerto Rico that publish data for other purposes.

In order to afford the full measure of relief intended by the Congress, the Commonwealth and the Department decided that applicable tiers should be published wherever possible. The Commonwealth therefore sought to secure a waiver of the confidentiality ordinarily afforded to each of the employers participating in the survey or census that are in industries with fewer than three respondents.

This document revises appendices A and B of the interim final rule to set forth the applicable tier for those industries with less than three respondents in which all respondents have provided waivers. In some cases, the resulting tier is lower than set forth in the applicable major group or industry in the interim final rule, and in other cases it is higher. (Under procedures outlined in the interim final rule, for any industry for which data is unavailable or for which waivers have not been obtained or have been denied, the applicable tier is the one published for the two- or three-digit SIC code under which the four-digit classification falls.) In all cases, the designation and rates required by the interim final rule remain in effect until publication of this document, which takes effect today.

Those SIC categories in which any employer has refused to provide a waiver are noted with a "b". Tier designations will not be published for any category in which one or more of the employers has refused to grant such a waiver.

Information in this document, together with that provided in the interim final rule published on March 30, 1990, and an amendment published on September 27, 1990 (55 FR 39574), provided employers in Puerto Rico with information as to the appropriate minimum wage rate applicable to the various SIC categories.

This document also notes the correction to the title of SIC Code 3821 that should have read Laboratory apparatus and furniture.

## II. Procedural Matters

The application of the Paperwork Reduction Act, Executive Order 12291, Regulatory Flexibility Act and Administrative Procedure Act to this rule are discussed in the Preamble to the interim final rule published on March 30, 1990.

This document was prepared under the direction and control of John R. Fraser, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

### List of Subjects in 29 CFR Part 510

Employment, Investigations, Labor, Law enforcement, Puerto Rico, Incorporation by reference, Minimum wages.

Accordingly, title 29, chapter V, subchapter A, of the Code of Federal Regulations, is amended as set forth below.

Signed at Wasington, DC, on this 27th day of December, 1991.

**John R. Fraser,**

*Acting Administrator, Wage and Hour Division.*

## PART 510—IMPLEMENTATION OF THE MINIMUM WAGE PROVISIONS OF THE FAIR LABOR STANDARDS AMENDMENTS OF 1989 IN PUERTO RICO

1. The authority citation for part 510 continues to read as follows:

**Authority:** Sec. 4, Pub. L. 101–157, 103 Stat. 938; 29 U.S.C. 201 *et seq.*

2. "Appendix A—Manufacturing Industries Eligible for Minimum Wage Phase-In" is amended by revising the following entries to the table to read as follows:

### Appendix A—Manufacturing Industries Eligible for Minimum Wage Phase-In

* * * * *

MANUFACTURING INDUSTRIES

| Major group | Industry group | Industry number | Tier | Industry |
|---|---|---|---|---|
| * | * | * | * | * |
| | 224 | 1 | | Narrow fabric and other smallwares mills: cotton, wool, silk, and manmade fiber. |
| | | 2241 | 1 | Narrow fabric and other smallwares mills: cotton, wool, silk, and manmade fiber. |
| * | * | * | * | * |
| | | 2251 | 1 | Women's full-length and knee-length hosiery, except socks. |
| * | * | * | * | * |
| | | 2517 | 3 | Wood television, radio, phonograph, and sewing machine cabinets. |
| * | * | * | * | * |
| | | 2522 | 2 | Office furniture, except wood. |
| * | * | * | * | * |
| | | 2879 | 1 | Pesticides and agricultural chemicals, not elsewhere classified. |

MANUFACTURING INDUSTRIES—Continued

| Major group | Industry group | Industry number | Tier | Industry |
|---|---|---|---|---|
| * | * | * | * | * |
| | | 3083 | 1 | Laminated plastics plate, sheet, and profile shapes. |
| * | * | * | * | * |
| | | 3646 | 2 | Commercial, industrial, and institutional electric lighting fixtures. |
| * | * | * | * | * |
| | | 3821 | 1 | Laboratory apparatus and furniture. |
| * | * | * | * | * |
| | | 3829 | 2 | Measuring and controlling devices, not elsewhere classified. |
| * | * | * | * | * |

3. "Appendix B—Non-manufacturing Industries Eligible for Minimum Wage Phase-In" is amended by revising the following entries to the table to read as follows:

**Appendix B—Non-manufacturing Industries Eligible for Minimum Wage Phase-In**

* * * * *

NON-MANUFACTURING INDUSTRIES

| Major group | Industry group number | Industry number | Tier | Industry |
|---|---|---|---|---|
| * | * | * | * | * |
| | 413 | | 3 | Intercity and rural bus transportation. |
| | | 4131 | 3 | Intercity and rural bus transportation. |
| * | * | * | * | * |
| | | 4221 | 1 | Farm product warehousing and storage. |
| * | * | * | * | * |
| | | 4499 | 1 | Water transportation services, not elsewhere classified. |

NON-MANUFACTURING INDUSTRIES—Continued

| Major group | Industry group number | Industry number | Tier | Industry |
|---|---|---|---|---|
| * | * | * | * | * |
| | 461 | | 1 | Pipelines, except natural gas. |
| | | 4613 | 1 | Refined petroleum pipelines. |
| * | * | * | * | * |
| | | 5014 | 1 | Tires and tubes. |
| * | * | * | * | * |
| | | 5082 | 1 | Construction and mining (except petroleum) machinery and equipment. |
| * | * | * | * | * |
| | 542 | | 1 | Meat and fish (seafood) markets, including freezer provisioners. |
| | | 5421 | 1 | Meat and fish (seafood) markets, including freezer provisioners. |
| * | * | * | * | * |
| | | 5714 | 3 | Drapery, curtain, and upholstery stores. |
| * | * | * | * | * |
| | | 6153 | b | Short-term business credit institutions, except agricultural. |
| * | * | * | * | * |
| | | 6324 | b | Hospital and medical service plans. |
| * | * | * | * | * |
| | 637 | | 1 | Pension, health, and welfare funds. |
| | | 6371 | 1 | Pension, health, and welfare funds. |
| * | * | * | * | * |
| | | 7374 | 1 | Computer processing and data preparation and processing services. |
| * | * | * | * | * |
| | | 7542 | 3 | Carwashes. |
| * | * | * | * | * |
| | 809 | | 1 | Miscellaneous health and allied services, not elsewhere classified. |

NON-MANUFACTURING INDUSTRIES—Continued

| Major group | Industry group number | Industry number | Tier | Industry |
|---|---|---|---|---|
| | | 8099 | 1 | Health and allied services, not elsewhere classified. |
| * | * | * | * | * |

[FR Doc. 92-326 Filed 1-9-92; 8:45 am]
BILLING CODE 4510-27-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 920

### Maryland Regulatory Program; Public Notice; Provisions on Adjudicatory Hearings

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Final rule; approval of amendments.

**SUMMARY:** OSM is announcing the approval of proposed amendments to the Maryland regulatory program (hereinafter referred to as the Maryland program) approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendments incorporate regulatory changes initiated by the State and change references to certain appeal rights from the Board of Review of the Department of Natural Resources to the Maryland Office of Administrative Hearings.

**EFFECTIVE DATE:** January 10, 1992.

**FOR FURTHER INFORMATION CONTACT:** Robert Biggi, Director, Harrisburg Field Office, Harrisburg Transportation Center, 4th and Market Streets, suite 3C, Harrisburg, PA 17101; Telephone: (717) 782-4036.

**SUPPLEMENTARY INFORMATION:**

## I. Background on the Maryland Program

On February 18, 1982, the Secretary of the Interior approved the Maryland program. Information regarding the general background on the Maryland program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Maryland program can be found in the February 18, 1982, **Federal Register** (47 FR 7214). Actions taken subsequent to the approval of the Maryland program are identified at 30 CFR 920.12, 30 CFR 920.15 and 30 CFR 920.16.

## II. Submission of Amendments

In the April 26, 1991, **Federal Register** (56 FR 19280), OSM announced the approval of proposed amendments to the Maryland program which revised the appeal procedures for adjudicatory hearing decisions. OSM required, however, that Maryland submit certain revisions to its Code of Maryland Administrative Regulations (COMAR) at sections 08.13.09.43K(7) and 08.13.09.43N(7). By letter dated May 7, 1991 (Administrative Record No. MD–528), Maryland submitted a proposed amendment to comply with these requirements.

By letter dated May 16, 1991 (Administrative Record No. MD–531), Maryland submitted a proposed amendment to revise the review procedures for requests for adjudicatory hearings, give the Director of the Water Resources Administration the final decision making authority to grant or deny a motion for reconsideration, and set a time limit for a decision by the hearing officer reviewing a failure to abate cessation order. The amendment modifies the following sections of COMAR: 08.13.09.43A, 08.13.09.43B(1), 08.13.09.43B(2)(e) now 08.13.09.43B(1)(e), 08.13.09.43B(3), 08.13.09.43B(4), 08.13.09.43B(5), 08.13.09.43B(6), and 08.13.09.43K(8).

OSM announced receipt of the proposed amendments in the July 3, 1991, **Federal Register** (56 FR 30517) and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendments. The comment period closed on August 2, 1991.

## III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.17, are the Director's findings concerning the proposed amendments submitted on May 7, 1991 and May 16, 1991. Any revisions not specifically addressed below are found to be no less stringent than SMCRA and no less effective than the Federal regulations. Revisions that are not discussed below contain language similar to the corresponding Federal rules, concern nonsubstantive wording changes, or revise cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

*Revisions to Maryland's Regulations That Are Not Substantively Identical to the Corresponding Federal Regulations*

1. COMAR 08.13.09.43A—General Provisions on Adjudicatory Hearings—General

Maryland is amending COMAR 08.13.09.43A by including non-substantive wording changes to the existing regulation that provides that whenever the right to request an adjudicatory hearing is provided by the State, the conduct of any resulting hearing will be governed by those State regulations authorizing an adjudicatory hearing and by the appropriate provisions of the Maryland Administrative Procedure Act.

The Federal rule at 43 CFR part 4 provides hearing and appeal procedures through the Office of Hearings and Appeals. The Director finds the proposed revision at section A not inconsistent with the Federal regulations.

2. COMAR 08.13.09.43B—General Provisions on Adjudicatory Hearings—Initial Review of Request

Maryland is proposing numerous revisions to COMAR 08.13.09.43B to authorize the Director of the Water Resources Administration (the Director) to make certain decisions relating to adjudicatory hearings and motions for reconsideration.

Specifically, Maryland is amending COMAR 08.13.09.43B(1) to require that the Director review requests for adjudicatory hearings and consider certain criteria in reaching a decision to grant or deny the hearings.

Maryland is amending one of the criteria at COMAR 08.13.09.43B(1)(e) to require that the request for an adjudicatory hearing demonstrate that the requestor has certain interests that may be adversely affected.

Maryland is amending COMAR 08.13.09.43B(3) to require that the Director notify the requestor, in writing and by certified mail, of a decision to grant or deny an adjudicatory hearing.

Maryland is amending COMAR 08.13.09.43B(4) to require that if a request for an adjudicatory hearing is denied, the requestor must be informed by notice that for any hearing request filed after December 28, 1989, the requestor has the right to request a review of the denial by filing a motion for reconsideration with the Director of the Water Resources Administration. The requestor must also be notified that if no motion for reconsideration is filed within 10 days, the denial is the Department's final decision as to the adjudicatory request.

Maryland is amending COMAR 08.13.09.43B(5) to require that a motion for reconsideration be accompanied by a written statement of the grounds in support of the motion, and if oral argument is requested, a written statement to that effect. Within 10 days of receipt of the motion, the Bureau may file a written response with the Director of the Water Resources Administration. After consideration of all relevant data, the Director of the Water Resources Administration or designee may hear oral argument and issue a written final decision.

Maryland is amending COMAR 08.13.09.43B(6) to reference the final decision of the Director of the Water Resources Administration. Correspondingly, Maryland is deleting the portion of the current State rule authorizing the hearing officer with the Department of Natural Resources' Office of Hearings to issue the final decision on a motion for reconsideration.

The Federal rules at 43 CFR part 4 provide hearing and appeal procedures through the Office of Hearings and Appeals. The Director finds the proposed revisions at sections B(1), B(1)(e), B(3), B(4), B(5), and B(6) no less effective than the Federal rules.

3. COMAR 08.13.09.43K(7)—General Provisions on Adjudicatory Hearings—Procedure After Testimony Is Concluded

To satisfy the required amendment codified at 30 CFR 920.16(a) (56 FR 19280, April 26, 1991), Maryland is amending COMAR 08.13.09.43K(7) to provide for the right of appeal in accordance with the State Government Article, sections 10–201 *et seq.*, Annotated Code of Maryland.

Maryland is amending COMAR 08.13.09.43K(8) to specify a 30 day time limit for a decision by the hearing officer reviewing a failure to abate cessation order. The reference to "regulation .40]" is changed to "Natural Resources Article, section 7–507(f), Annotated Code of Maryland."

The Director finds the proposed revisions to sections K(7) and K(8) not inconsistent with the Federal hearings and appeals regulations at 43 CFR part 4.

4. COMAR 08.13.09.43N(7)—General Provisions on Adjudicatory Hearings—Award of Costs

To satisfy the required amendment codified at 30 CFR 920.16(a) (56 FR 19280, April 26, 1991), Maryland is amending COMAR 08.13.09.43N(7) to provide for the right of appeal in accordance with State Government Article, sections 10-201 *et seq.*, Annotated Code of Maryland.

The Director finds the proposed revision at section N(7) not inconsistent with the Federal hearing and appeals regulations at 43 CFR part 4.

*Public Comments*

The public comment period announced in the July 3, 1991 **Federal Register** (56 FR 30517) ended on August 2, 1991. No public comments were received and a public hearing was not held as no one requested an opportunity to provide testimony.

*Agency Comments*

Pursuant to section 503(b) of SMCRA and the implementing regulations at 30 CFR 732.17(h)(11)(i), comments were solicited from various Federal agencies with an actual or potential interest in the Maryland program. The Department of Labor, Mine Safety and Health Administration, the Department of the Army, Army Corps of Engineers, and the Department of the Interior, Bureau of Land Management, concurred without comment.

**V. Director's Decision**

Based on the above findings, the Director is approving the program amendments submitted by Maryland on May 7, 1991, and May 16, 1991.

The Federal regulations at 30 CFR part 920 codifying decisions concerning the Maryland program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage states to bring their programs in conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

*Effect of Director's Decision*

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to a State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to an approved program. In his oversight of the Maryland program, the Director will recognize only the statutes, regulations, and other materials approved by him together with any consistent implementing policies, directives, and other materials, and will require the enforcement by Maryland of only such provisions.

*EPA Concurrence*

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the Environmental Protection Agency (EPA) with respect to any provisions of a state program amendment which relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*) The Director has determined that this amendment contains no such provisions.

**VI. Procedural Determinations**

*National Environmental Policy Act*

The Secretary has determined that pursuant to section 702(d) of SMCRA, 30 U.S.C. 1291(d), no environmental impact statement need be prepared on this rulemaking.

*Executive Order 12291 and the Regulatory Flexibility Act*

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from the preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

*Paperwork Reduction Act*

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

**List of Subjects in 30 CFR Part 920**

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 30, 1991.

**Jeffrey D. Jarrett,**

*Acting Assistant Director, Eastern Support Center.*

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

**PART 920—MARYLAND**

1. The authority citation for part 920 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. In section 920.15, a new paragraph (p) is added to read as follows:

**§ 920.15 Approval of amendments to State regulatory programs.**

* * * * *

(p) The following amendments submitted to OSM on May 7, 1991 and May 16, 1991 are approved effective January 10, 1992. The amendments consist of the following modifications to the Maryland program:

(1) Revision of the following rules of the Code of Maryland Administrative Regulations:

08.13.09.43A General Provisions on Adjudicatory Hearings—General.

08.13.09.43B(1), B(1)(e), B(3), B(4), B(5), and B(6) General Provisions on Adjudicatory Hearings—Initial Review of Request.

08.13.09.43K(7) and K(8) General Provisions on Adjudicatory Hearings—Procedure after Testimony is Concluded.

08.13.09.43N(7) General Procedures on Adjudicatory Hearings—Award of Costs.

3. In § 920.16, paragraph (a) is removed and reserved.

[FR Doc. 92-694 Filed 1-9-92; 8:45 am]

BILLING CODE 4310-05-M

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 165**

**[CGD1 91-170]**

**Safety Zone Regulations: Kill Van Kull, New York and New Jersey**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone in the waters of Bergen Point West Reach in the Kill Van Kull of New York and New Jersey. This zone will divide a portion of the channel at Bergen Point West Reach

into two sections, a northern half and a southern half. In the northern half, concentrated drilling and blasting will be conducted and no vessel is permitted to transit that section. In the southern half, vessel passage is permitted under the criteria set forth in this regulation. This action is necessary to protect the maritime community from the possible dangers and hazards to navigation associated with the extensive blasting and dredging operations which are being conducted in the northern half of this section of the channel.

**EFFECTIVE DATES:** This regulation becomes effective at 8 a.m., November 16, 1991 unless sooner terminated by the Captain of the Port, New York.

**FOR FURTHER INFORMATION CONTACT:** MST1 S. Whinham of Captain of the Port, New York (212) 668-7934.

**SUPPLEMENTARY INFORMATION:**

**Drafting Information**

The drafters of this notice are LTJG C. W. Jennings, Project Officer, Captain of the Port, New York and LCDR J. Astley, Project Attorney, First Coast Guard District, Legal Office.

**Regulatory History**

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to any potential hazards. The request for this zone was not received until November 14, 1991, there was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

On August 8, 1991 this office submitted for publication a final rule which would impose a regulated navigation area (RNA) over the entire Kill Van Kull for the duration of a three year deepening project which is occurring throughout the Kill. When that rule is published it will appear as § 165.165 of this Title (CGD1 89-065). As that rule has not been made effective yet this action is necessary to safeguard users of this waterway from the hazards involved with this ongoing project. This regulation is necessary, as an interim measure, to adequately ensure vessel safety in the affected area until the RNA is published and becomes effective. When the RNA becomes effective this safety zone will be cancelled.

**Background and Purpose**

On November 14, 1991 the contractor for the project advised this office that work within the area adjacent to and east of this area has been completed and the depths certified. A safety zone was established for that area and was effective on August 1, 1991, it was published in the **Federal Register** on August 14, 1991 (56 FR 40250). That zone is suspended upon the effective date and time of this regulation. This zone is established for similar work occurring in the vicinity of the Bayonne Bridge and is needed to protect users of the waterway from the dangers and hazards associated with dredging and blasting operations within the zone.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

**Regulatory Evaluation**

These regulations are not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary.

**Small Entities**

Because it expects the impact of this regulation to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

**Collection of Information**

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

**Federalism**

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Environment**

The Coast Guard has considered the environmental impact of these regulations and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, they will have no significant impact and they are categorically excluded from further environmental documentation.

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

**Regulation**

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 33 CFR 160.5.

2. A new 165.T 01-170 is added to read as follows:

**§ 165.T 01-170 Safety Zone: Bergen Point West Reach, Kill Van Kull—New York and New Jersey.**

(a) *Location.* The following area has been declared a Safety Zone: All waters of Bergen Point West Reach in the Kill Van Kull Channel, east of a line drawn shore to shore along the 074°08'43" W line of longitude and west of a line drawn shore to shore along the 074°08'25" W line of longitude. KVK Channel Light Buoy 12 (LLNR 34550) has been relocated in approximate position 40°38'30" N 074°08'24" W, and KVK Channel Light Buoy 14 (LLNR 34565) has been relocated in approximate position 40°38'30" N 074°08'42" W to indicate the eastern and western boundaries, respectively, of this zone.

(b) *Effective date.* This regulation becomes effective at 8 a.m., November 16, 1991, unless sooner terminated by the Captain of the Port, New York, NY.

(c) *Regulations.* (1) Northern half of channel: No vessel may operate in the northern half of the channel within this zone. In accordance with the general regulations in § 165.23 of this part, entry into or movement within this area of the safety zone is prohibited unless authorized by the Captain of the Port.

(2) Southern half of channel:

(i) Each vessel transiting the southern half of the channel in this zone is required to do so at minimum wake speed.

(ii) No vessel shall enter this zone when they are advised by the drilling barge or Vessel Traffic Service New York (VTSNY) that a misfire or hangfire has occurred. Vessels already underway in the zone shall proceed to clear the area immediately.

(iii) Vessels, 300 gross tons or greater and tugs with tows, are prohibited from meeting or overtaking in this portion of the channel.

(iv) Vessels, 300 gross tons or greater and tugs with tows, transiting with the

prevailing current are regarded as the stand-on vessel.

(v) Prior to entering this safety zone, the master, pilot or operator of each vessel, 300 gross tons or greater and tugs with tows, shall notify VTSNY as to their decision regarding the employment of assist tugs while transiting the safety zone.

(vi) For vessels towing astern, hawser or wire length must not exceed 100 feet for that tow. This length is measured from the towing bit on the towing vessel to the point where the hawser or wire connects with the vessel being towed.

Dated: January 6, 1992.

**R.M. Larrabee,**

*Captain, U.S. Coast Guard, Captain of the Port, New York.*

[FR Doc. 92-662 Filed 1-9-92; 8:45 am]

BILLING CODE 4910-14-M

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**33 CFR Part 165**

**[CGD1 91-168]**

## Safety Zone Regulations: Kill Van Kull, New York and New Jersey

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary Final rule.

**SUMMARY:** The Coast Guard is establishing a second safety zone in the waters of Constable Hook Reach in the Kill Van Kull of New York and New Jersey. This zone will also divide a portion of the channel at Constable Hook Reach into two sections, a northern half and a southern half. In the northern half, concentrated drilling and blasting will be conducted and no vessel is permitted to transit that section. In the southern half, vessel passage is permitted under the criteria set forth in this regulation. This action is necessary to protect the maritime community from the possible dangers and hazards to navigation associated with the extensive blasting and dredging operations which are being conducted in the northern half of this section of the channel.

**EFFECTIVE DATES:** This regulation becomes effective at 10 a.m., November 5, 1991 unless sooner terminated by the Captain of the Port, New York, NY.

**FOR FURTHER INFORMATION CONTACT:** MST1 S. Whinham of Captain of the Port, New York (212) 668-7934.

**SUPPLEMENTARY INFORMATION:**

### Drafting Information

The drafters of this notice are LTJG C. W. Jennings, Project Officer, Captain of the Port, New York and LCDR J. Astley, Project Attorney, First Coast Guard District, Legal Office.

### Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to any potential hazards. The request for this zone was not received until November 4, 1991, there was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

On August 8, 1991 this office promulgated a final rule which would impose a regulated navigation area (RNA) over the entire Kill Van Kull for the duration of a three year deepening project which is occuring throughout the Kill. When that rule is published it will appear as § 165.165 of this title (CGD1 89-065). As that rule has not been made effective yet this action is necessary to safeguard users of this waterway from the hazards involved with this ongoing project. This regulation is necessary, as an interim measure, to adequately ensure vessel safety in the affected area until the RNA is published and becomes effective. When the RNA becomes effective this safety zone will be cancelled.

### *Background and Purpose*

On November 4, 1991 the contractor for the project advised this office that work within the western work area at Constable Hook was nearing completion and that there was a need to extend blasting and dredging operations from that area into the eastern work area in Constable Hook. A safety zone was established for the western work area and was effective on September 23, 1991, it was published in the **Federal Register** on October 4, 1991 (56 FR 50274). That zone remains in effect. This zone is established for similar work occurring in the eastern work area and is needed to protect users of the waterway from the dangers and hazards associated with dredging and blasting operations within the zone.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

### *Regulatory Evaluation*

These regulations are not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary.

### *Small Entities*

Because it expects the impact of this regulation to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

### *Collection of Information*

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### *Federalism*

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### *Environment*

The Coast Guard has considered the environmental impact of these regulations and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, they will have no significant impact and they are categorically excluded from further environmental documentation.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

### Regulation

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

## PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. A new 165.T 01-168 is added to read as follows:

**§ 165.T. 01-168 Safety Zone: Constable Hook Reach, Kill Van Kull—New York and New Jersey.**

(a) *Location.* The following area has been declared a Safety Zone: All waters of Constable Hook Reach, in the Kill Van Kull Channel, within an area described by a line connecting the following four points:

| *Latitude* | *Longitude* |
|---|---|
| 40°39'09.2" N | 074°04'29.1" W |

| | |
|---|---|
| 40°39'06.0" N | 074°04'15.5" W |
| 40°38'50.9" N | 074°04'21.1" W |
| 40°38'55.1" N | 074°04'34.0" W |

thence to the point of the beginning.

KVK Channel Light Buoy 2 (LLNR 34280) has been relocated in approximate position 40°38'57" N 074°04'15" W, and KVK Channel Temporary Light Buoy 2A (no LLN) has been established in approximate position 40°39'02" N 074°04'29" W to indicate the eastern and western boundaries, respectively, of this area.

(b) *Effective dates.* This regulation becomes effective at 10 a.m., November 5, 1991 unless sooner terminated by the Captain of the Port, New York, NY.

(c) *Regulations.* (1) Northern half of channel: No vessel may operate in the northern half of the channel within this zone. In accordance with the general regulations in § 165.23 of this part, entry into or movement within this area of the safety zone is prohibited unless authorized by the Captain of the Port.

(2) Southern half of channel: (i) Each vessel transiting the southern half of the channel in this zone is required to do so at minimum wake speed.

(ii) No vessel shall enter this zone when they are advised by the drilling barge or Vessel Traffic Service New York (VTSNY) that a misfire or hangfire has occurred. Vessels already underway in the zone shall proceed to clear the area immediately.

(iii) Vessels, 300 gross tons or greater and tugs with tows, are prohibited from meeting or overtaking in this portion of the channel.

(iv) Vessels, 300 gross tons or greater and tugs with tows, transiting with the prevailing current are regarded as the stand-on vessel.

(v) Prior to entering this safety zone, the master, pilot or operator of each vessel, 300 gross tons or greater and tugs with tows, shall notify VTSNY as to their decision regarding the employment of assist tugs while transiting the safety zone.

(vi) For vessels towing astern, hawser or wire length must not exceed 100 feet for that tow. This length is measured from the towing bit on the towing vessel to the point where the hawser or wire connects with vessel being towed.

Dated: January 6, 1992.

**R.M. Larrabee,**

*Captain, U.S. Coast Guard, Captain of the Port, New York.*

[FR Doc. 92-663 Filed 1-9-92; 8:45 am]

BILLING CODE 4910-14-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 146

**[FRL-4091-7]**

### Underground Injection Control Program; Water-Brine Interface Mechanical Integrity Test for Class III Salt Solution Mining Injection Wells

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of alternative method; final approval.

**SUMMARY:** The Director of the Office of Ground Water and Drinking Water, Environmental Protection Agency (EPA), is granting final approval for the use of the Water-Brine Interface mechanical integrity test as an alternative to the tests specified in the Code of Federal Regulations, 40 CFR 146.8(b), for the demonstration of no significant leaks in the casing, tubing, or packer. The Agency intends this approval to apply only to Class III salt solution mining injection wells on a national basis. The test is referred to as the Water-Brine Interface Method.

**DATES:** The final approval for this alternative mechanical integrity test becomes effective January 10, 1992.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey B. Smith, Office of Ground Water and Drinking Water (WH-550G), U.S. EPA, Washington, DC 20460 at: (202) 260-5586.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The Safe Drinking Water Act (SDWA) (42 U.S.C. 300h, *et seq.*) is intended to protect underground sources of drinking water (USDWs) from contamination by underground injection. One of the cornerstones of the Underground Injection Control (UIC) Program is the assurance that the mechanical integrity of the wells is maintained. Mechanical integrity (MI) is defined as the absence of significant leaks in the casing, tubing, or packer, and the absence of significant fluid movement into a USDW through vertical channels adjacent to the injection well bore. This movement can occur from either the injection zone, from other salt water formations or aquifers. Acceptable methods of evaluating mechanical integrity are specified in 40 CFR 146.8 for State programs administered by EPA and in the program applications of the States with primary enforcement responsibility for injection wells. Section 146.8(d) states that the Director may allow alternative mechanical integrity tests if the Administrator approves the alternative method. The Administrator has delegated authority to approve alternative test procedures to the Director of the Office of Ground Water and Drinking Water.

Operators of Class III salt solution mining wells need an alternative mechanical integrity test to the standard annular pressure test because of the great difficulty using conventional tubing and packer techniques. Typically, a tubing and packer would have to be installed in the well in order to conduct a standard annular pressure mechanical integrity test. Scale, or hardened mineral deposits, formed on the interior surface of the casing often makes establishment of a seal between the packer element and the inside diameter of the casing very difficult. Thus, wells that actually possess mechanical integrity may not pass the test because the packer cannot be properly seated. In addition, operators that use the standard annular pressure test must shut down production in a cavern and bleed off the pressure to enable the tubing and packer test string to be installed in the well. These physical requirements can interrupt the production of brine from a cavern for several days and cause major logistical problems at the processing facility due to the loss of feedstock.

EPA granted interim approval for a period of two years (from September 18, 1989 to September 18, 1991) for the use of the alternative mechanical integrity test known as the Water-Brine Interface Method. EPA accepted written comments and referenced data on test results through February 19, 1991. The Salt Institute and Ohio Department of Natural Resources submitted results from 54 Class III wells that were tested using the prescribed Water-Brine Interface methodology during the period from September 18, 1989 through February 19, 1991. Only test data was submitted; neither party offered any comments on the test methodology. EPA reviewed and carefully evaluated all submitted test results. As a result of this review, EPA made several modifications to the overall test procedure and incorporated those modifications in this final approval. The modified procedures are identified under *C. Procedures.*

Although the Water-Brine Interface test is not a mandatory technique for demonstrating mechanical integrity, the methodology, subject to the conditions and procedures discussed in this notice, does provide the necessary information to demonstrate reliably whether a well has a leak in the casing or tubing. The ultimate discretion and authority for specifying MIT procedures that will

ensure safeguarding USDWs rests with the appropriate UIC Director. EPA approves the amended Water-Brine Interface Test Method as an alternative MIT for Class III salt solution mining wells only.

**II. Application and Description of the Test**

*A. Application*

The field design of a salt solution mining operation is dependent upon the morphology of the salt formation being mined. If the salt formation is an isolated dome or a very thick layer with limited lateral extent, single producing wells are commonly used. In these instances, one well is drilled and equipped to leach out a single cavern. The well employs a string of surface casing to protect underground sources of drinking water (USDWs). A string of production casing is installed inside the surface casing to the salt-bearing formation. Both casings are cemented to the surface. The well is then drilled to the desired depth and a string of tubing is installed inside the production casing.

Water or partially saturated brine is injected through either the tubing or the casing-tubing annulus to dissolve the salt formation. The brine is then produced up the casing-tubing annulus or the tubing, respectively. As salt dissolution proceeds, the tubing string may then be raised or lowered into the cavern to facilitate dissolving and removal of brine. Upon reaching the surface, the brine flows through a dedicated pipeline to a nearby processing plant.

If the salt formation is bedded and geographically extensive, two or more wells are usually drilled and then linked horizontally. In a cavern containing two wells, one well is used for injection and the other for production. Large caverns developed by two or more wells are termed galleries. Once the wells are interconnected, fresh water or partially saturated brine is pumped down one well into the gallery to dissolve the salt formation. The brine is withdrawn from the gallery and transported to the surface by another well (or wells). If there are more than two wells in the gallery, the additional wells may be used for either injection or production.

Wells are constructed almost exactly like those employed in single well caverns; a string of surface casing is set below the base of the USDWs and an inner production casing is set into the top of the salt formation. A tubing string may or may not be run inside the production casing.

Well operators maintain pressure within the cavern that is sufficient to cause the produced brine to flow through the wells, up to the surface and through surface pipelines to the processing facilities. This practice creates a pressure differential between the well bore and any aquifer adjacent to it. This pressure differential would result in loss of fluid out into a formation if there was a failure of the outer casing string. To ensure that USDWs are protected from possible degradation, the wells must periodically undergo testing for mechanical integrity.

None of the variations in geology, well construction, field design or operating pressure requirements affect the proposed alternative test.

*B. Testing Method*

Fresh water, or a fluid of lower specific gravity (e.g., oil) approved for use by the Director, is loaded into the casing or tubing string between the wellhead assembly and the cavern brine. Pressure must be applied to the fresh water column to displace the denser brine from the casing. In instances where a low specific gravity oil is substituted for fresh water, in order to provide accurate results, special conditions will be required. These conditions are specified in a following section.

Due to the density contrast and buoyancy forces, a relatively distinct interface between the two liquids (fresh water and brine) is established. The contribution of the buoyant force to the pressure at the wellhead can be determined by measurements using a precision pressure gauge before and after the fresh water is introduced into the well. Since the fresh water fluid column is under pressure (i.e., application of pressure is necessary to displace the brine out of the casing and into the cavern), the loss of any fresh water from the casing, through a leak or by intentional release, will cause the interface between the water and the brine to move upward in the casing. This upward movement of the column of brine will cause a drop in wellhead pressure. The Water-Brine Interface Method indicates leakage through changes in the wellhead pressure which result from the upward movement of the water-brine interface. A monitoring methodology, which can accurately detect very small pressure changes using deadweight pressure gauges or electronic pressure transducers, have been developed.

By measuring the change in pressure, the upward movement of the water-brine interface in the casing can be calculated. The extent of movement is obtained by dividing any pressure drop observed during the test by the product of the difference of the specific gravities of the two liquids (above and below the interface) and a conversion constant (based upon the pressure gradient for fresh water) of 0.4331 psi per foot.

$$M = \frac{NPC}{(SG1-SG2) \times k}$$

where:

M = the upward movement of the interface (in ft)
NPC = the net pressure change in pounds per square inch (psi)
SG1 = the specific gravity of the cavern brine
SG2 = the specific gravity of the injected fluid, and
k = 0.4331 psi/ft, a conversion constant (the pressure gradient for fresh water)

The rate of leakage can be determined by multiplying the casing volume per foot of length by the distance which the interface has moved up, and dividing the result by the length of the test period.

$$L = \frac{Cv \times M}{Hrs}$$

where:

L = the rate of leakage (in gals/hr)
Cv = the casing volume per foot of length (in gals/ft)
M = the upward movement of the interface (in ft), and
Hrs = the length of the test period in hours

The sensitivity of the test is a function of two factors—(1) the duration of the test; and, (2) the sensitivity of the pressure gauges.

With proper design, almost any sensitivity can be achieved, particularly by extending the duration of the test.

*C. Procedure*

The prescribed test procedure is as follows:

1. Preflush the well by pumping a minimum of one casing volume of fresh water through the well to ensure that no salt crystallization remains in the casing string.

2. Withdraw brine from the test well until the specific gravity of the brine remains constant. Measure and record the specific gravity value.

3. Measure and record the test wellhead pressure.

4. Withdraw brine from a reference well until the specific gravity of brine is constant. Shut in the reference well and take a pressure reading. Record the wellhead pressure. Tubing may serve as the reference well and the casing-tubing annulus functions as the test well.

5. Inject fresh water (or oil) into the test well in sufficient quantities to fill all but the bottom 50 ft of the production casing. To achieve this, inject fresh water (or oil) until the wellhead pressure increases by an amount calculated using the following formula:

Pressure increase = (D–50) × (SG1–SG2) × k

where:

D = depth of the well (in ft)
SG1 = the specific gravity of the cavern brine
SG2 = the specific gravity of the injected fluid (water or oil), and
k = 0.4331 psi/ft, a conversion constant (pressure gradient for fresh water)

Determine whether there has been any change in the measured pressure in the reference well during the injection phase. Add the net pressure change to the calculated pressure increase for the test well to obtain the final pressure necessary for proper placement of the interface. (Where the presence of a partially saturated brine could adversely affect the accuracy of test results, an oil with a low specific gravity may be substituted for fresh water in order to provide a sufficient density contrast. The use of oil under these specific circumstances represents a modification to the original interim test procedure).

6. In order to avoid mixing and maintain a sharp interface, inject the fresh water (or oil) at a rate which will not cause the interface to move downward at a rate greater than 20 feet per minute.

7. Wait a minimum of 36 hours for the test and reference wells to come to temperature equilibrium.

8. At the conclusion of the waiting period, compare the pressures of both the test and reference wells against the initial pressures at the start of the waiting period to assure that there has been no significant movement of the interface. If pressure differences can be explained by the wells coming to temperature equilibrium, then the test may proceed. The UIC Director shall determine whether the submitted explanation is accurate and adequate. If pressure differences cannot be explained by changes caused by the wells coming to temperature equilibrium, the operator must withdraw a minimum of one casing volume of fluid from both the test and reference wells and restart the test at step 1.

9. The operator must simultaneously measure the wellhead pressures for both the test and reference wells. The pressure readings must be taken using a deadweight pressure gauge or pressure transducer system having a sensitivity of 0.1 psi or greater. If a deadweight pressure gauge is used, then a minimum of ten readings should be taken, at one minute intervals, over a ten minute period. If an electronic pressure transducer system is used then one reading during the ten minute measurement period is sufficient. (Since electronic pressure transducers continuously calculate an averaged signal response, only one reading is required. This is a modification to the original interim test procedure).

10. Calculate the average pressure at the test well and the reference well and the difference between them. Record all data in a standard format.

11. Repeat Steps 9 & 10, at two hour intervals, for a total test period of eight hours (5 averaged readings).

12. For each two hour intervals, and the eight hour test period, calculate the net pressure change rate at the test well as follows:

$$NPCR = \frac{P(start) - P(end)}{Hrs}$$

where:

NPCR = Net Pressure Change Rate (psi/hr)
P(start) = average pressure of test well at the beginning of the test minus average pressure of reference well at the start of the test (psi)
P(end) = average pressure of the test well at the conclusion of the test minus the average pressure of the reference well at the conclusion of the test (psi)
Hrs = hours in the test period

13. If the calculation for the eight hour test period indicates a net pressure change rate of less than 0.05 psi/hr, the well has demonstrated mechanical integrity. Pressure change rates that are greater than 0.05 psi/hr indicate a lack of mechanical integrity.

## III. Basis for Determination

EPA developed the initial requirements and limitations of the testing method to demonstrate mechanical integrity pursuant to 40 CFR 146.8(b) after considering test results for demonstration wells at the Morton Salt Plant at Rittman, Ohio on July 5–13, 1988. Additional confirmation tests were run on June 16–20, 1989. Fifty-four (54) independent well tests using the methodology were conducted during the interim approval period from September 18, 1989 to February 19, 1991. Test results were submitted to the EPA for independent review and analysis by The Salt Institute and the Ohio Department of Natural Resources.

Further consideration was given to the following technical documents:

(1) "*Significance of Regulatory Constraints on the Operation of Packerless Injection Wells.*" K.I. Kamath, et al. SPE #17047.

(2) "*Solar Ponds Collect Sun's Heat.*" R.K. Multer, Chemical Engineering, March, 1982.

(3) "*The Salt Stabilized Solar Pond for Space Heating—A Practical Manual.*" Peter R. Flynn and Ted H. Short, Ohio State University, Department of Agricultural Engineering.

## IV. Special Conditions

### *A. Limitations for Conducting the Water-Brine Interface Method Mechanical Integrity Test*

The following are limitations for running the Water-Brine Interface Method mechanical integrity test:

1. The brine in the test well must have a specific gravity >1.1 (be *at least* 50% saturated) for the test to be run using fresh water (S.G.=1.0). If the brine has a specific gravity <1.1, then an oil having a specific gravity <0.9 must be substituted for the fresh water.

2. Adequate precautions should be taken, as necessary, to ensure that there is no salt crystallization inside the casing prior to starting the test procedure.

3. A reference well must be used.

4. All wells must be tested at pressures that are equal to or greater than the normal operating pressures, but be no less than 100 psi. If a facility has a normal operating pressure that is less than 100 psi, the Director has the discretion to permit testing at the lower pressure.

5. The test well must be filled with a lower specific gravity fluid to within fifty feet of the bottom of the casing. However, if the casing or tubing string extends >50 feet below the top of the salt cavern, then the interface may be established up to 50 feet above the estimated *top* of the cavern.

6. The test and reference wells must be shut in for a minimum of 36 hours to ensure that the wells reach temperature equilibrium prior to initiation of the test. Failure of the wells to reach temperature equilibrium will result in "false negative" test results and the wells will fail the mechanical integrity test.

7. Deadweight pressure gauges or electronic pressure transducer systems may be used to record pressure changes. Pressure measuring devices must have a certified minimum sensitivity of 0.1 psi.

8. Wellhead pressures for the reference well and the test well must be read simultaneously. If a deadweight pressure gauge is used then at least 10 readings should be taken every two hours.

9. The maximum test period shall be 8 hours. The average hourly pressure change should be calculated based upon a continuous 8 hour test period. Averaging results from test periods greater than 8- hours may be authorized only by the Director.

*B. Determination*

The Water-Brine Interface Method, subject to the conditions and procedures discussed in this notice, provides the necessary information to demonstrate reliably whether a well has a leak in the casing or tubing. EPA is approving the test for Class III salt solution mining injection wells in all States.

Dated: January 2, 1992.

**James R. Elder,**

*Director, Office of Ground Water and Drinking Water.*

[FR Doc. 92-664 Filed 1-9-92; 8:45 am]

BILLING CODE 6560-50-M

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Part 302-11

**[FTR Amendment 24]**

**RIN 3090-AE45**

### Federal Travel Regulation; Relocation Income Tax (RIT) Allowance Tax Tables

**AGENCY:** Federal Supply Service, GSA.

**ACTION:** Final rule.

**SUMMARY:** The Federal and State tax tables for calculating the relocation income tax (RIT) allowance must be updated yearly to reflect changes in Federal and State income tax brackets and rates. The Federal and State tax tables contained in this rule are for calculating the 1992 RIT allowances to be paid to relocating Federal employees.

**EFFECTIVE DATE:** This final rule is effective January 1, 1992, and applies for RIT allowance payments made on or after January 1, 1992.

**FOR FURTHER INFORMATION CONTACT:** Robert A. Clauson, Transportation Management Division (FBX), Washington, DC 20406, telephone FTS 365-5253 or commercial (703) 305-5253.

**SUPPLEMENTARY INFORMATION:** The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

**List of Subjects in 41 CFR Part 302-11**

Government employees, Income Taxes, Relocation allowances and entitlements, Transfers, Travel and transportation expenses.

For the reasons set out in the preamble, 41 CFR part 302-11 is amended as follows:

## PART 302-11—RELOCATION INCOME TAX (RIT) ALLOWANCE

1. The authority citation for part 302-11 continues to read as follows:

**Authority:** 5 U.S.C. 5721-5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747); E.O. 12466, February 27, 1984 (49 FR 7349).

2. Appendixes A, B, and C to part 302-11 are amended by adding the following tables at the end of each appendix, respectively:

APPENDIX A TO PART 302-11—FEDERAL TAX TABLES FOR RIT ALLOWANCE

* * * * * * *

FEDERAL MARGINAL TAX RATES BY EARNED INCOME LEVEL AND FILING STATUS—TAX YEAR 1991

The following table is to be used to determine the Federal marginal tax rate for Year 1 for computation of the RIT allowance as prescribed in § 302-11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar year 1991.

| Marginal tax rate (percent) | Single taxpayer | | Heads of household | | Married filing jointly/ qualifying widows and widowers | | Married filing separately | |
|---|---|---|---|---|---|---|---|---|
| | Over | But not over | Over | But not over | Over | But not over | Over | But not over |
| 15 | $5,754 | $26.242 | $10,177 | $36,611 | $13,093 | $46,770 | $7,120 | $23,977 |
| 28 | 26,242 | 55,330 | 36,611 | 78,894 | 46,770 | 94,598 | 23,977 | 47,908 |
| 31 | 55,330 | | 78,894 | | 94,598 | | 47,908 | |

APPENDIX B TO PART 302-11—STATE TAX TABLES FOR RIT ALLOWANCE

* * * * * * *

STATE MARGINAL TAX RATES BY EARNED INCOME LEVEL—TAX YEAR 1991

The following table is to be used to determine the State marginal tax rates for calculation of the RIT allowance as prescribed in § 302-11.8(e)(1). This table is to be used for employees who received covered taxable reimbursements during calendar year 1991.

| State (or district) | Marginal tax rates (stated in percents) for the earned income amounts specified in each column [1] [2] | | | |
|---|---|---|---|---|
| | $20,000–$24,999 | $25,000–$49,999 | $50,000–$74,999 | $75,000 and over |
| 1. Alabama | 5 | 5 | 5 | 5 |
| 2. Alaska | 0 | 0 | 0 | 0 |
| 3. Arizona | 3.8 | 4.4 | 5.25 | 7 |
| If single status [3] | 4.4 | 5.25 | 6.5 | 7 |
| 4. Arkansas | 3.5 | 7 | 7 | 7 |
| If single status [3] | 6 | 7 | 7 | 7 |
| 5. California | 2 | 6 | 8 | 11 |
| If single status [3] | 6 | 9.3 | 9.3 | 11 |
| 6. Colorado | 5 | 5 | 5 | 5 |
| 7. Connecticut | 1.5 | 1.5 | 1.5 | 1.5 |
| 8. Delaware | 5 | 7.6 | 7.7 | 7.7 |
| 9. District of Columbia | 6 | 9.5 | 9.5 | 9.5 |
| If single status [3] | 8 | 9.5 | 9.5 | 9.5 |
| 10. Florida | 0 | 0 | 0 | 0 |
| 11. Georgia | 5 | 6 | 6 | 6 |
| 12. Hawaii | 7.25 | 9.5 | 10 | 10 |
| If single status [3] | 9.5 | 10 | 10 | 10 |
| 13. Idaho | 6.5 | 7.8 | 8.2 | 8.2 |
| If single status [3] | 7.8 | 8.2 | 8.2 | 8.2 |
| 14. Illinois | 3 | 3 | 3 | 3 |
| 15. Indiana | 3.4 | 3.4 | 3.4 | 3.4 |
| 16. Iowa | 5 | 8.8 | 9.98 | 9.98 |
| If single status [3] | 7.2 | 8.8 | 9.98 | 9.98 |
| 17. Kansas | 3.65 | 3.65 | 5.15 | 5.15 |
| If single status [3] | 4.5 | 5.95 | 5.95 | 5.95 |
| 18. Kentucky | 6 | 6 | 6 | 6 |
| 19. Louisiana | 2 | 4 | 4 | 6 |
| If single status [3] | 4 | 4 | 6 | 6 |
| 20. Maine | 4.725 | 8.925 | 8.925 | 9.89 |
| If single status [3] | 8.925 | 9.89 | 9.89 | 9.89 |
| 21. Maryland | 5 | 5 | 5 | 5 |
| 22. Massachusetts | 6.25 | 6.25 | 6.25 | 6.25 |
| 23. Michigan | 4.6 | 4.6 | 4.6 | 4.6 |
| 24. Minnesota | 6 | 8 | 8 | 8.5 |
| If single status [3] | 8 | 8 | 8.5 | 8.5 |
| 25. Mississippi | 4 | 5 | 5 | 5 |
| 26. Missouri | 5.5 | 6 | 6 | 6 |
| 27. Montana | 5 | 10 | 10 | 11 |
| If single status [3] | 8 | 10 | 11 | 11 |
| 28. Nebraska | 3.63 | 5.62 | 6.92 | 6.92 |
| If single status [3] | 5.62 | 6.92 | 6.92 | 6.92 |
| 29. Nevada | 0 | 0 | 0 | 0 |
| 30. New Hampshire | 0 | 0 | 0 | 0 |
| 31. New Jersey | 2 | 2.5 | 3.5 | 7 |
| If single status [3] | 2 | 5 | 6.5 | 7 |
| 32. New Mexico | 3.8 | 5.9 | 7.7 | 8.5 |
| If single status [3] | 5.8 | 7.7 | 8.5 | 8.5 |
| 33. New York | 4 | 7.875 | 7.875 | 7.875 |
| If single status [3] | 7.875 | 7.875 | 7.875 | 7.875 |
| 34. North Carolina | 6 | 7 | 7 | 7.75 |
| 35. North Dakota | 6.67 | 9.33 | 12 | 12 |
| If Single status [3] | 8 | 10.67 | 12 | 12 |
| 36. Ohio | 1.486 | 4.457 | 5.201 | 6.9 |
| If single status [3] | 3.715 | 4.457 | 5.201 | 6.9 |
| 37. Oklahoma | 3 | 7 | 7 | 7 |
| If single status [3] | 7 | 7 | 7 | 7 |
| 38. Oregon | 9 | 9 | 9 | 9 |
| 39. Pennsylvania | 2.6 | 2.6 | 2.6 | 2.6 |
| 40. Rhode Island | * 27.5 percent of Federal income tax liability [4] | | | |
| 41. South Carolina | 6 | 7 | 7 | 7 |
| 42. South Dakota | 0 | 0 | 0 | 0 |
| 43. Tennessee | 0 | 0 | 0 | 0 |
| 44. Texas | 0 | 0 | 0 | 0 |
| 45. Utah | 7.2 | 7.2 | 7.2 | 7.2 |
| 46. Vermont | * (See footnote 5) [4] | | | |
| If single status [3] | * 34 percent of Federal income tax liability [4] | | | |
| 47. Virginia | 5 | 5.75 | 5.75 | 5.75 |
| 48. Washington | 0 | 0 | 0 | 0 |
| 49. West Virginia | 3 | 4.5 | 6 | 6.5 |
| 50. Wisconsin | 4.9 | 6.93 | 6.93 | 6.93 |
| If single status [3] | 6.93 | 6.93 | 6.93 | 6.93 |
| 51. Wyoming | 0 | 0 | 0 | 0 |

[1] Earned income amounts that fall between the income brackets shown in this table (e.g., $24,999.45, $49,999.75) should be rounded to the nearest dollar to determine the marginal tax rate to be used in calculating the RIT allowance.

[2] If the earned income amount is less than the lowest income bracket shown in this table, the employing agency shall establish an appropriate marginal tax rate as provided in § 302–11.8(e)(2)(ii).

[3] This rate applies only to those individuals certifying that they will file under a single status within the States where they will pay income taxes. All other taxpayers, regardless of filing status, will use the other rate shown.

[4] Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302-11.8(e)(2)(iii).
[5] The income tax rate for Vermont (for other than single status) is 31 percent of Federal income tax liability for employees whose earned income amounts are between $20,000-$24,999; for all other employees the rate is 34 percent of Federal income tax liability.

APPENDIX C TO PART 302-11—FEDERAL TAX TABLES FOR RIT ALLOWANCE—YEAR 2

* * * * * * *

FEDERAL MARGINAL TAX RATES BY EARNED INCOME LEVEL AND FILING STATUS—TAX YEAR 1992

The following table is to be used to determine the Federal marginal tax rate for Year 2 for computation of the RIT allowance as prescribed in § 302-11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar years 1985, 1986, 1987, 1988, 1989, 1990, or 1991.

| Marginal tax rate (percent) | Single taxpayer | | Heads of household | | Married filing jointly/ qualifying widows and widowers | | Married filing separately | |
|---|---|---|---|---|---|---|---|---|
| | Over | But not over | Over | But not over | Over | But not over | Over | But not over |
| 15 | $6,190 | $27,963 | $10,864 | $38,611 | $14,316 | $50,219 | $7,819 | $25,629 |
| 28 | 27,963 | 58,786 | 38,611 | 83,158 | 50,219 | 101,123 | 25,629 | 50,939 |
| 31 | 58,786 | ..... | 83,158 | ..... | 101,123 | ..... | 50,939 | ..... |

Dated: December 27, 1991.
Richard G. Austin,
*Administrator of General Services.*
[FR Doc. 92-644 Filed 1-9-92; 8:45 am]
BILLING CODE 6820-24-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### 45 CFR Part 400

### Refugee Resettlement Program: Refugee Cash Assistance and Refugee Medical Assistance

**AGENCY:** Administration for Children and Families (ACF), HHS. Office of Refugee Resettlement.

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a duration of 8 months for the special programs of refugee cash assistance and refugee medical assistance in Federal FY 1992.

**EFFECTIVE DATE:** January 10, 1992.

**ADDRESSES:** Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, SW., Washington, DC 20447.

**FOR FURTHER INFORMATION CONTACT:** Toyo A. Biddle, (202) 401-9253.

**SUPPLEMENTARY INFORMATION:**

This final rule codifies instructions previously provided to the States to reduce the duration of the special programs of refugee cash assistance (RCA) and refugee medical assistance (RMA) from a refugee's first 12 months in the United States to a refugee's first 8 months in the United States in Federal fiscal year 1992. The instructions to States were transmitted by letter of September 11, 1991. This rule is applicable to both current and newly arriving refugees.

The reduction is necessitated by the limited funds appropriated for this purpose for Federal FY 1992 (October 1, 1991—September 30, 1992). Refugee Assistance under Section 412 of the Immigration and Nationality Act is expressly limited by the extent of available appropriations. 8 U.S.C. 1522(a)(1)(A); 45 CFR 400.202.

This regulation is issued in response to an order by the United States District Court, Western District of Washington at Seattle, that this change should have been effected by regulation. The court indicated that emergency procedures under the Administrative Procedure Act may be employed under the good cause exception, 5 U.S.C. 553(b). *Nhan Van Nguyen, et al.* v. *Louis Sullivan, et al.*, No. C91-1587WD, (W.D. Wash., November 27, 1991).

The decision to reduce the period of time-eligibility for RCA and RMA is based on the Department's analysis of the anticipated assistance needs in FY 1992 of refugees who entered the United States during the latter part of FY 1991 and those who will be admitted during FY 1992 under the admissions ceiling of 132,000 publicly funded refugees established by the President. (Memorandum from the President to the United States Coordinator for Refugee Affairs, Determination of FY 1992 Refugee Admissions Numbers and Authorization of In-Country Refugee Status Pursuant to sections 207 and 101(a)(42), respectively, of the Immigration and Nationality Act, Presidential Determination No. 92-2, October 9, 1991.)

This analysis showed that the fixed appropriation of $234,216,000 for FY 1992 would be insufficient to provide funding for a period longer than a refugee's first 8 months in the U.S., beginning December 1, 1991, and still ensure a sustainable level of assistance to all eligible refugees throughout the remainder of FY 1992. The analysis showed that if a time-eligibility period of 12 months were retained, then the available funds would be exhausted before the end of the fiscal year and no RCA or RMA would be available either to newly arriving refugees or to refugees already in the U.S. Refugee admissions in FY 1992 will increase by approximately 18%, while the program must operate at approximately the prior-year appropriations level.

Consistent with the preceding actions, 45 CFR 400.2, 400.60(b), 400.100(b), 400.203(b), 400.204(b), and 400.209(b) are being amended to reduce the duration of RCA and RMA from a refugee's first 12 months in the U.S. to a refugee's first 8 months in the U.S.

**Justification for Dispensing With Notice of Proposed Rulemaking**

A period for public comment is not being provided because it would be impracticable, unnecessary, or not in the public interest for the following reasons:

Under the current statute and regulations, the duration of benefits is a function of the level of appropriations. The resulting computation is a matter which public comment would not

significantly aid. Congressional funding limitations effectively establish the eligibility period, rendering notice of proposed rulemaking and comment procedures unnecessary. Although consideration of alternatives which would not be mathematically generated may be assisted by public input, there is insufficient time to consider other options without adversely impacting the public interest in avoiding the premature exhaustion of funds and having a finite account equitably distributed throughout the fiscal year.

Because there is a continuing flow of refugees into the United States and because continuing costs for RCA and RMA are being incurred by the States, any delays in applying a reduced period of time-eligibility would result in the need for ever-greater reductions in the RCA and RMA programs in order to avoid their abrupt and complete termination and the absence of such assistance to both current and newly arriving refugees.

Accordingly, the agency finds good cause for issuance of an immediately effective final rule.

**Regulatory Procedures**

*Regulatory Impact Analysis*

Under Executive Order 12291, we must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation does not meet the definition of a "major" regulation because it does not have a $100 million annual impact.

*Regulatory Flexibility Act*

Pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Secretary certifies that this rule will not have a significant economic impact on a substantial number of small entities.

*Paperwork Reduction Act*

This rule does not contain collection-of-information requirements.

**Statutory Authority**

Section 412(a)(9) of the Immigration and Nationality Act, 8 U.S.C. 1522(a)(9), authorizes the Secretary of HHS to issue regulations needed to carry out the program.

[Catalogue of Federal Domestic Programs: 93.026, Refugee and Entrant Assistance—State-Administered Programs]

**List of Subjects in 45 CFR Part 400**

Grant programs—Social programs, Health care, Public assistance programs, Refugees, Reporting and recordkeeping requirements.

Dated: December 10, 1991.

**Jo Anne B. Barnhart,**

*Assistant Secretary for Children and Families.*

Approved: December 30, 1991.

**Louis W. Sullivan,**

*Secretary, Department of Health and Human Services.*

For the reasons set forth in the preamble, 45 CFR Chapter IV is amended as follows:

O. The heading for chapter IV of 45 CFR is revised to read as follows:

**CHAPTER IV—OFFICE OF REFUGEE RESETTLEMENT, ADMINISTRATION FOR CHILDREN AND FAMILIES DEPARTMENT OF HEALTH AND HUMAN SERVICES**

## PART 400—REFUGEE RESETTLEMENT PROGRAM

1. The authority citation for part 400 continues to read as follows:

Authority: Section 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9)).

**§ 400.2 [Amended]**

2. Section 400.2 is amended by revising the definitions of "Refugee cash assistance" and "Refugee medical assistance" by inserting after the words "12-month period" the following phrase: "(except during Federal FY 1992, less than an 8-month period)".

**§§ 400.60(b) and 400.100(b) [Amended]**

3. Sections 400.60(b) and 400.100(b) are amended by removing the words "18-month period" and by inserting in their place the following phrase: "12-month period (except during Federal FY 1992, 8-month period)".

**§§ 400.203(b) and 400.204(b) [Amended]**

4. Sections 400.203(b) and 400.204(b) are amended by inserting after the words "12-month period" the following phrase: "(except during Federal FY 1992, 8-month period)".

**§ 400.209(b) [Amended]**

5. Section 400.209(b) is amended by inserting after the words "12 months" the following phrase: "(except during Federal FY 1992, 8 months)".

[FR Doc. 92-797 Filed 1-9-92; 8:45 am]
BILLING CODE 4150-04-M

# Proposed Rules

Federal Register
Vol. 57, No. 7
Friday, January 10, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

### 7 CFR Part 401

**[Amendment No. 46; Doc. No. 0280S]**

### General Crop Insurance Regulations; Corn, Grain Sorghum, and Soybean Endorsements

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR part 401), effective for the 1993 and succeeding crop years, by adding Late Planting and Prevented Planting provisions to the Corn Endorsement (§ 401.111), Grain Sorghum Endorsement (§ 401.113) and the Soybean Endorsement (§ 401.117). The intended effect of this rule is to replace the current optional coverages for late and prevented planting with more effective provisions that are an integral part of the basic coverage.

This provision will be made available, as an option, for the 1992 crop year if the process is completed timely. The insured will be notified of the premiums required for this expanded coverage.

**DATES:** Written comments, data, and opinions on this proposed rule must be submitted not later than January 27, 1992, to be sure of consideration.

**ADDRESSES:** Send comments to: Peter Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington DC 20250.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (703) 235–1168.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of the Corn, Grain Sorghum, and Soybean Endorsement regulations affected by this rule under those procedures. The sunset review date established for Corn is April 1, 1996; Soybeans, October 1, 1996; and Grain Sorghum, July 1, 1996.

James E. Cason, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons and will not have a significant economic impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC proposes to amend the General Crop Insurance Regulations (7 CFR part 401) by adding Late Planting and Prevented Planting provisions to the Corn Endorsement (§ 401.111), Grain Sorghum Endorsement (§ 401.113), and the Soybean Endorsement (§ 401.117). The intended effect of this rule is to replace the current optional coverages for late and prevented planting with more effective provisions that are an integral part of the basic coverage.

The current optional coverage for late and prevented planting have been found to lack the desired degree of effectiveness due to both coverage deficiencies and the volume of paperwork required. The additional paperwork required includes the prevented planting application and acreage report, and an option form for late planting coverage. Adding to the administrative burden of the current coverages is tracking of the deadline dates for submission of these forms.

Therefore, to improve the coverage provided for late and prevented planting, an analysis of the weaknesses of the current program and concepts on which new policy provisions could be based, was prepared. The concepts developed are as follows:

1. The provisions of late and prevented planting coverage will be incorporated in the applicable crop policies. They will not be a separate option (except for 1992).

2. The late planting period begins the day after the final planting date and extends for 25 days thereafter. A late planting guarantee reduction will apply to the rate of 1% per day for days 1 through 10 and 2% per day for days 11 through 25.

3. Coverage for prevented planting will be for the peril of excess moisture. In cases of drought, the insured and/or company may petition FCIC to permit land to be covered by the prevented planting provisions. FCIC may elect to permit insureds to bypass planting where successful production appears improbable and still remain qualified for a prevented planting payment. Irrigated acreage will not be eligible for a prevented planting payment due to drought.

4. For the 1992 crop year (if the process is completed in a timely manner) and the 1993 and crop years, coverage for late and prevented planting will be added to the provisions of the corn, grain sorghum, and soybean policies. The 1993 crop year will serve as an evaluation period. Other crops may be considered for the 1994 crop year.

5. The liability for prevented planting will be 50% of the guarantee for timely planted acreage and applies to acreage not planted within 25 days after the latest final planting date. The current prevented planting endorsement provides for liability for 35% of the

guarantee. The increase to 50% will provide additional protection to farmers; however, it will also increase premium requirements.

6. If the unit is planted within 25 days after the latest final planting date, with any non-conserving crop maturing in the same calendar year, a prevented planting payment will not be made.

7. When the insured crop is planted more than 25 days after the final planting date for the insured crop, but not later than 55 days after the latest final planting date, the salvage value of any production will be production to count against the prevented planting guarantee. When a substitute crop is planted between 25 and 55 days after the latest final planting date, the salvage value of the substitute crop will be production to count. The amount of production to count will be the result of dividing the dollar amount received for the crop by the highest price election available for the insured crop.

8. If the insured is prevented from planting the insured crop and a substitute crop is not planted within 55 days after the latest final planting date for the current crop year, a prevented planting payment will be made.

9. When the insured is prevented from planting the insured crop by the final planting date, the insured may choose to:

(1) Plant the insured crop after the planting date and have coverage under the late planting or prevented planting provisions;

(2) Plant a substitute crop (no coverage is provided for the substitute crop unless it is insured under a separate crop endorsement to your policy); or

(3) Leave the acreage unplanted and receive a prevented planting payment.

10. For corn and grain sorghum, the maximum acreage eligible for prevented planting coverage will be equal to the greater of the previous years planted acreage or the Agricultural Stabilization and Conservation Service (ASCS) base acreage applicable to the farm less any acreage reduction necessary to comply with the current year ASCS price support program. The maximum eligible acreage for soybeans will be 100 percent of the soybean acreage planted the previous year.

11. To be eligible for a prevented planting indemnity, the acreage that was prevented from being planted must exceed the lesser of 20 acres or 20 percent of the unit.

12. Prevented planting coverage will not be provided for:

(1) High risk land unless we agree in writing;

(2) Land used for acreage conservation (ASCS's Acreage Reduction Program (ARP)); or

(3) Land where any crop has been harvested in the same calendar year.

13. Land entered into any program administered by the United States Department of Agriculture that provides a payment for not planting the acreage, eg. the 0/92 or Conservation Reserve programs, will not be eligible for prevented planting coverage.

14. When the insured is prevented from planting or is prevented from planting timely and plants a crop subject to salvage provisions, the per acre premium for the acreage will be the same as for timely planted acreage. When the farmer paid premium for late or prevented planting exceeds the liability, coverage will not be provided.

15. The insured may decline late and prevented planting coverage if written notification is provided to the agent by the sales closing date.

16. This coverage will require an appropriate premium charge commensurate with the risks assumed. For 1992, a premium charge will be quoted for the option which may be accepted or rejected by the insured. For 1993, the provision would be incorporated in the policy. The insured would have the option of removing the coverage, in writing, with a pre-determined reduction in premium considered appropriate for the reduced risk to the insurer.

FCIC is soliciting written comments on this rule for 15 days following publication in the **Federal Register**.

Written comments should be sent to Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250.

Written comments received pursuant to this rule will be available for public inspection and copying in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

**List of Subjects in 7 CFR Part 401**

Crop insurance; Corn, Grain sorghum, and Soybeans.

**Proposed Rule**

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the General Crop Insurance Regulations (7 CFR part 401), effective for the 1993 and succeeding crop years, in the following instances:

**PART 401—[AMENDED]**

1. The authority citation for 7 CFR part 401 continues to read as follows:

**Authority:** 7 U.S.C. 1506, 1516.

2. 7 CFR § 401.111 is amended by revising and reissuing paragraph 10 and adding new paragraphs 11 and 12, to read as follows:

**§ 401.111 Corn endorsement.**

* * * * *

10. Meaning of Terms

a. *Days*—means calendar days.

b. *Drought*—means a lack of precipitation which is general in the county; occurs prior to and during the planting period; and makes production of a crop improbable.

c. *Final planting date*—means the date contained in the actuarial table by which the insured crop must initially be planted in order to be insured for the full production guarantee.

d. *Harvest*—(of corn on the unit) means completion of combining or picking the corn for grain or the chopping of corn for silage as applicable.

e. *High risk land*—means land on which crop damage occurs more frequently than is normal in the county and may be characterized by frequent flooding, excess moisture, or soil types that may be highly drought prone. This land is not classified in an "R" classification on the actuarial table.

f. *Irrigated practice*—means applying adequate water at the proper time to produce at least the yield used to establish the guarantee on the irrigated corn.

g. *Latest final planting date*—means the latest final planting date, as established by the actuarial table, for any insurable crop in the county to be planted for harvest in the same crop year as the prevented planting crop, except tobacco, fresh market sweet corn, fresh market peppers, and fresh market tomatoes.

h. *Non-conserving crop*—means any crop planted for harvest as food, feed, or fiber.

i. *Replanting*—means performing the cultural practice necessary to place the corn seed in the insured acreage with the expectation of growing a normal crop.

j. *Section*—is a unit of measure under the rectangular survey system describing a tract of land generally one mile square, usually containing approximately 640 acres.

k. *Silage*—means corn harvested by severing the stalk from the land and chopping the stalk and the ear for the purpose of livestock feed.

11. Late Planting

a. When you elect to plant corn after the final planting date, your production guarantee will be reduced by:

(1) One percent (1%) for each of the first ten days after the final planting date; and

(2) Two percent (2%) each day for the eleventh through the twenty-fifth day after the final planting date.

Corn planted later than the twenty-fifth day after the final planting date will be subject to section 12 which contains

provisions for coverage for acreage you are prevented from planting.

b. Subsection 2.e.(4) of the General Crop Insurance Policy will not apply to corn.

c. When the farmer paid premium (gross premium less our subsidy) for late planted acreage exceeds our liability on the acreage, coverage will not be provided (no premium will be due and no indemnity will be paid).

d. You are automatically covered under the late and prevented planting provisions of this policy. However, you may decline these coverages if you notify us, in writing, by the sales closing date. If you decline the coverage for any crop year and determine that you wish coverage in subsequent crop years, you must notify us, in writing, by the sales closing date to reinstate these coverages for any succeeding crop year.

12. Prevented Planting

a. Coverage is provided only for acreage which you are unavoidably prevented from planting due to:

(1) Excess moisture; or

(2) Drought, if drought is general in the area and we agree in writing that drought will be an insurable cause of loss. Drought will not be considered an insurable cause of loss for the irrigated practice.

b. The acreage covered will be limited to the greater of the number of acres planted to corn for the previous crop year on the Agricultural Stabilization and Conservation Service (ASCS) farm serial number, or the ASCS base acreage for corn reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture. Acreage insurable for prevented planting must meet all applicable policy requirements for insurability. A minimum of 20 acres or 20 percent of the acres in the unit, whichever is smaller, must be prevented from being planted to be eligible for a prevented planting indemnity. If acreage intended for corn cannot be planted by the final planting date due to an insured prevented planting cause of loss, you may:

(1) Plant the insured crop after the final planting date and have coverage under the late planting or prevented planting provisions, whichever is applicable;

(2) Plant a substitute crop and have coverage under the prevented planting provisions. Coverage is not provided for prevented planting if the substitute crop is planted within 25 days after the latest planting date. (Insurance for any substitute crop is not provided unless insured under a separate endorsement to your policy); or

(3) Leave the acreage unplanted and receive a prevented planting indemnity under the terms of this endorsement.

c. Prevented planting coverage will not be provided for:

(1) High risk land unless we agree to provide prevented planting coverage, in writing, prior to the acreage reporting date for the insured crop;

(2) Land used for acreage conservation under any acreage reduction program administered by the United States Department of Agriculture;

(3) Land that is entered into any program administered by the United States Department of Agriculture that provides a payment for not planting the acreage (such as the Conservation Reserve Program); or

(4) Land where any crop has been harvested in the same calendar year.

d. You must report the number of acres eligible for prevented planting coverage no later than 60 days after the latest final planting date. This report will be your notice of loss for the purpose of prevented planting coverage. No more than 100 percent of the number of acres planted for corn production and irrigated during the previous crop year will be eligible for a prevented planting indemnity using an irrigated practice guarantee. Prevented planting for irrigated coverage will only be approved if the acreage prevented from planting is prepared for irrigation, and if sufficient irrigation equipment is available to carry out an irrigated practice on the acreage claimed prevented from planting.

e. When acreage that may qualify for a prevented planting indemnity is reported, the premium for the acreage will be the same as for timely planted acreage. If the farmer paid premium amount for this acreage exceeds the prevented planting liability, coverage will not be provided (no premium will be due and no indemnity will be paid).

f. The prevented planting indemnity will be calculated as follows:

(1) Multiply the number of acres eligible for a prevented planting indemnity by the production guarantee;

(2) Divide this result by two (2);

(3) Subtract the result obtained by dividing the value of any production from a substitute crop by the highest price election available for corn as contained in the actuarial table;

(4) Multiply this result by your price election; and

(5) Multiply this result by your share. (i.e.)

$$\frac{\text{acres} \times \text{guarantee}}{2} - \left(\frac{\text{salvage}}{\text{high price}}\right) \times \text{your price election} \times \text{share} = \text{indemnity}$$

g. Acreage will be considered for a prevented planting indemnity only if the acreage is not planted:

(1) To corn within 25 days after the final planting date for corn; and

(2) To any crop other than corn, that normally matures in the same crop year, within 25 days after the latest final planting date.

h. When corn is planted 26, or more, days after the corn final planting date and 55, or fewer, days after the latest final planting date, or when any non-conserving crop normally maturing in the same calendar year is planted 26 or more and 55 or less days after the latest final planting date, any production on the acreage will be counted against the prevented planting guarantee as shown in subsection 12.f.(3), above. Such production will count against the prevented planting guarantee on a per acre basis (the production will not count against the guarantee for acreage left unplanted). The value of the substitute crop will be the actual value received if the crop has been marketed, or the value which could be received if the crop has not been marketed. The value for such production will be established on the day we determine the loss.

i. If any crop is planted 56 or more days after the latest final planting date, there will be no value to count against the prevented planting amount of insurance.

3. 7 CFR 401.113 is amended by revising and reissuing paragraph 10 and adding new paragraphs 11 and 12, to read as follows:

**§ 401.113 Grain sorghum endorsement.**

* * * * *

10. Meaning of Terms

a. *Days*—means calendar days.

b. *Drought*—means a lack of precipitation which is general in the country; occurs prior to and during the planting period; and makes production of a crop improbable.

c. *Final planting date*—means the date contained in the actuarial table by which the insured crop must initially be planted in order to be insured for the full production guarantee.

d. *Harvest*—(of grain sorghum on the unit) means completion of combining or threshing of grain sorghum for grain or the chopping of grain sorghum for silage as applicable.

e. *High risk land*—means land on which crop damage occurs more frequently than is normal in the county and may be characterized by frequent flooding, excess moisture, or soil types that may be highly drought prone. This land is not classified in an "R" classification on the actuarial table.

f. *Irrigated practice*—means applying adequate water at the proper time to produce at least the yield used to establish the guarantee on the irrigated grain sorghum.

g. *Latest final planting date*—means the latest final planting date, as established by the actuarial table, for any insurable crop in the county to be planted for harvest in the same crop year as the prevented planting crop, except tobacco, fresh market sweet corn, fresh market peppers, and fresh market tomatoes.

h. *Non-conserving crop*—means any crop planted for harvest as food, feed, or fiber.

i. *Replanting*—means performing the cultural practice necessary to place the grain sorghum seed in the insured acreage with the expectation of growing a normal crop.

j. *Section*—is a unit of measure under the rectangular survey system describing a tract of land generally one mile square, usually containing approximately 640 acres.

k. *Silage*—means grain sorghum harvested by severing the stalk from the land and chopping the stalk for the purpose of livestock feed.

11. Late Planting

a. When you elect to plant grain sorghum after the final planting date, your production guarantee will be reduced by:

(1) One percent (1%) for each of the first ten days after the final planting date: and

(2) Two percent (2%) each day for the eleventh through the twenty-fifth day after the final planting date.

Grain sorghum planted later than the twenty-fifth day after the final planting date will be subject to section 12 which contains provisions for coverage for acreage you are prevented from planting.

b. Subsection 2.e.(4) of the General Crop Insurance Policy will not apply to grain sorghum.

c. When the farmer paid premium (gross premium less our subsidy) for late planted acreage exceeds our liability on the acreage, coverage will not be provided (no premium will be due and no indemnity will be paid).

d. You are automatically covered under the late and prevented planting provisions of this policy, However, you may decline these coverage if you notify us, in writing, by the sales closing date. If you decline these coverages for any crop year and determine that you wish coverage in subsequent crop years, you must notify us, is writing, by the sales closing date to reinstate these coverages for any succeeding crop year.

12. Prevented Planting

a. Coverage is provided only for acreage which you are unavoidably prevented from planting due to:

(1) Excess moisture; or

(2) Drought, if drought is general in the area and we agree in writing that drought will be a insurable cause of loss. Drought will not be considered an insurable cause of loss for the irrigated practice.

b. The acreage covered will be limited to the greater of the number of acres planted to grain sorghum for the previous crop year on the Agricultural Stabilization and Conservation Service (ASCS) farm serial number, or the ASCS base acreage for grain sorghum reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture.

Acreage insurable for prevented planting must meet all applicable policy requirements for insurability. A minimum of 20 acres or 20 percent of the acres in the unit, whichever is smaller, must be prevented from being planted to be eligible for a prevented planting indemnity. If acreage intended for grain sorghum cannot be planted by the final planting date, due to an insured prevented planting cause of loss, you may:

(1) Plant the insured crop after the final planting date and have coverage under the late planting or prevented planting provisions;

(2) Plant a substitute crop and have coverage under the prevented planting provisions. Coverage is not provided for prevented planting if the substitute crop is planted within 25 days after the latest planting date. (Insurance for any substitute crop is not provided unless insured under a separate endorsement to your policy); or

(3) Leave the acreage unplanted and receive a prevented planting indemnity under the terms of this endorsement.

c. Prevented planting coverage will not be provided for:

(1) High risk land unless we agree to prevented planting coverage, in writing, prior to the acreage reporting date for the insured crop;

(2) Land used for acreage conservation under any acreage reduction program administered by the United State Department of Agriculture;

(3) Land that is entered into any program administered by the United States Department of Agriculture that provides a payment for not planting the acreage (such as the Conservation Reserve Program); or

(4) Land where any crop has been harvested in the same calendar year.

d. You must report the number of acres eligible for prevented planting coverage no later than 60 days after the latest final planting date. This report will be your notice of loss for the purpose of prevented planting coverage. No more than 100 percent of the number of acres planted for grain sorghum production and irrigated during the previous crop year will be eligible for a prevented planting indemnity using an irrigated practice. Prevented planting for irrigated coverage will only be approved if the acreage prevented from planting is prepared for irrigation, and if sufficient irrigation equipment is available to carry out an irrigated practice on the acreage claimed prevented from planting.

e. When acreage that may qualify for a prevented planting indemnity is reported, the premium for the acreage will be the same as for timely planted acreage. If the farmer paid premium amount for this acreage exceeds the prevented planting liability, coverage will not be provided (no premium will be due and no indemnity will be paid).

f. The prevented planting indemnity will be calculated as follows:

(1) Multiply the number of acres eligible for a prevented planting indemnity by the production guarantee;

(2) Divide this result by two (2);

(3) Subtract the result obtained by dividing the value of any production from a substitute crop by the highest price election available for grain sorghum as contained in the actuarial table;

(4) Multiplying this result by your price election; and

(5) Multiplying this result by your share. (i.e.)

$$\left(\frac{\text{acres} \times \text{guarantee}}{2} - \left(\frac{\text{salvage}}{\text{high price}}\right)\right) \times \text{your price election} \times \text{share} = \text{indemnity}$$

g. Acreage will be considered for a prevented planting indemnity only if the acreage is not planted:

(1) To grain sorghum within 25 days after the final planting date for grain sorghum; and

(2) To any crop other than grain sorghum, that normally matures in the same crop year, within 25 days after the latest final planting date.

h. When grain sorghum is planted 26, or more, days after the grain sorghum final planting date and 55, or fewer, days after the latest final planting date, or when any non-conserving crop normally maturing in the same calendar year is planted 26 or more and 55 or less days after the latest final planting date, any production on the acreage will be counted against the prevented planting guarantee as shown in subsection 12.f.(3), above. Such production will count against the prevented planting guarantee on a per acre basis (the production will not count against the guarantee for acreage left unplanted). The value of the substitute crop will be the actual value received if the crop has been marketed, or the value which could be received if the crop has not been marketed. The value for such production will be established on the day we determine the loss.

i. If any crop is planted 56 or more days after the latest final planting date, there will be no value to count against the prevented planting amount of insurance.

4. 7 CFR § 401.117 is amended by revising and reissuing paragraph 10 and adding new paragraphs 11 and 12, to read as follows:

**§ 401.117 Soybean endorsement.**

* * * * *

10. Meaning of Terms

a. *Days*—means calendar days.

b. *Drought*—means a lack of precipitation which is general in the county; occurs prior to and during the planting period; and makes production of a crop improbable.

c. *Final planting date*—means the date contained in the actuarial table by which the insured crop must initially be planted in order to be insured for the full production guarantee.

d. *Harvest*—(of soybeans on the unit) means completion of combining or threshing of soybeans on the unit.

e. *High risk land*—means land on which crop damage occurs more frequently than is normal in the county and may be characterized by frequent flooding, excess moisture, or soil types that may be highly drought prone. This land is not classified in an "R" classification on the actuarial table.

f. *Irrigated practice.*—means applying adequate water at the proper time to produce at least the yield used to establish the guarantee on the irrigated soybeans.

g. *Latest final planting date*—means the latest final planting date, as established by the actuarial table, for any insurable crop in the county to be planted for harvest in the same crop year as the prevented planting crop, except tobacco, fresh market sweet corn, fresh market peppers, and fresh market tomatoes.

h. *Non-conserving crop*—means any crop planted for harvest as food, feed, or fiber.

i. *Replanting*—means performing the cultural practice necessary to place the soybean seed in the insured acreage with the expectation of growing a normal crop.

j. *Section*—is a unit of measure under the rectangular survey system describing a tract of land generally one mile square, usually containing approximately 640 acres.

11. Late Planting

a. When you elect to plant soybeans after the final planting date, your production guarantee will be reduced by:

(1) One percent (1%) for each of the first ten days after the final planting date; and

(2) Two percent (2%) each day for the eleventh through the twenty-fifth day after the final planting date.

Soybeans planted later than the twenty-fifth day after the final planting date will be subject to section 12 which contains provisions for coverage for acreage you are prevented from planting.

b. Subsection 2.e.(4) of the General Crop Insurance Policy will not apply to soybeans.

c. When the farmer paid premium (gross premium less our subsidy) for late planted acreage exceeds our liability on the acreage, coverage will not be provided (no premium will be due and no indemnity will be paid).

d. You are automatically covered under the late and prevented planting provisions of this policy. However, you may decline these coverages if you notify us, in writing, by the sales closing date. If you decline these coverages for any crop year and determine that you wish coverage in subsequent crop years, you must notify us, in writing, by the sales closing date to reinstate these coverages for any succeeding crop year.

12. Prevented Planting

a. Coverage is provided only for acreage which you are unavoidably prevented from planting due to:

(1) Excess moisture; or

(2) Drought, if drought is general in the area and we agree in writing that drought will be an insurable cause of loss. Drought will not be considered an insurable cause of loss for the irrigated practice.

b. The acreage covered will be limited to 100 percent of the number of acres planted to soybeans for the previous crop year on the Agricultural Stabilization and Conservation Service (ASCS) farm serial number. Acreage insurable for prevented planting must meet all applicable policy requirements for insurability.

A minimum of 20 acres or 20 percent of the acres in the unit, whichever is smaller, must be prevented from being planted to be eligible for a prevented planting indemnity. If acreage intended for soybeans cannot be planted by the final planting date, due to an insured prevented planting cause of loss, you may:

(1) Plant the insured crop after the final planting date and have coverage under the late planting or prevented planting provisions, whichever is applicable;

(2) Plant a substitute crop and have coverage under the prevented planting provisions. Coverage is not provided for prevented planting if the substitute crop is planted within 25 days after the latest planting date. (Insurance for any substitute crop is not provided unless insured under a separate endorsement to your policy); or

(3) Leave the acreage unplanted and receive a prevented planting indemnity under the terms of this endorsement.

c. Prevented planting coverage will not be provided for:

(1) High risk land unless we agree to prevented planting coverage, in writing, prior to the acreage reporting date for the insured crop;

(2) Land used for acreage conservation under any acreage reduction program administered by the United States Department of Agriculture;

(3) Land that is entered into any program administered by the United States Department of Agriculture that provides a payment for not planting the acreage (such as the Conservation Reserve Program); or

(4) Land where any crop has been harvested in the same calendar year.

d. You must report the number of acres eligible for prevented planting coverage no later than 60 days after the latest final planting date. This report will be considered as your notice of loss for the purpose of prevented planting coverage. No more than 100 percent of the number of acres planted for soybean production and irrigated during the previous crop year will be eligible for a prevented planting indemnity using an irrigated practice guarantee. Prevented planting for irrigated coverage will only be approved if the acreage prevented from planting is prepared for irrigation, and if sufficient irrigation equipment is available to carry out an irrigated practice on the acreage claimed prevented from planting.

e. When acreage that may qualify for a prevented planting indemnity is reported, the premium for the acreage will be the same as for timely planted acreage. If the farmer paid premium amount for this acreage exceeds the prevented planting liability, coverage will not be provided (No premium will be due and no indemnity will be paid).

f. The prevented planting indemnity will be calculated as follows:

(1) Multiply the number of acres eligible for a prevented planting indemnity by the production guarantee;

(2) Divide this result by two (2);

(3) Subtract the result obtained by dividing the value of any production from a substitute crop by the highest price election available for soybeans as contained on the actuarial table;

(4) Multiply this result by your price election; and

(5) Multiply this result by your share. (i.e.)

$$\frac{\text{acres} \times \text{guarantee}}{2} - \left(\frac{\text{salvage}}{\text{high price}}\right)$$

$\times$ your price election $\times$ share = indemnity

g. Acreage will be considered for a prevented planting indemnity only if the acreage is not planted:

(1) To soybeans within 25 days after the final planting date for soybeans; and

(2) To any crop other than soybeans, that normally matures in the same crop year, within 25 days after the latest final planting date.

h. When soybeans are planted 25, or more, days after the soybean final planting date and 55, or fewer, days after the latest final planting date, or when any non-conserving crop normally maturing in the same calendar year is planted 26 or more and 55 or less days after the latest final planting date, any production on the acreage will be counted against the prevented planting guarantee as shown in subsection 12.f.(3), above. Such production will count against the prevented planting guarantee on a per acre basis (the production will not count against the guarantee for acreage left unplanted). The value of the substitute crop will be the actual value received if the crop has been marketed, or the value which could be received if the crop has not been marketed. The value for such production will be established on the day we determine the loss.

i. If any crop is planted 56 or more days after the latest final planting date, there will be no value to count against the prevented amount of insurance.

Done in Washington DC on December 17, 1991.

**James E. Cason,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. 92-678 Filed 1-9-92; 8:45 am]

BILLING CODE 3410-08-M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 91-NM-251-AD]**

## Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice proposes the adoption of a new airworthiness directive (AD), applicable to certain Model A320 series airplanes, which would require inspection to detect chafing of the wire looms in the wing and the horizontal stabilizer and repair or replacement, protection, and realignment, if necessary. This proposal is prompted by an incident in which a wire loom short circuit caused fire extinguishant to discharge and pop the circuit breaker for a brake fan. The actions specified by the proposed AD are intended to prevent electrical short circuiting due to chafing of the wire loom in the wing and the horizontal stabilizer.

**DATES:** Comments must be received by February 28, 1992.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-251-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier, Daurat 31700 Blagnac, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. Comments

may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Grey Holt, Aerospace Engineer, Standization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2140; fax (206) 227-1320.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-251-AD." The postcard will be date stamped and returned to the commented.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention Rules Docket No. 91-NM-251-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

### Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, recently notified the FAA that an unsafe condition may exist on certain Airbus Industrie Model A320 series airplanes. The French DGAC advises that, on an in-service Model A320 series airplane, a wire loom short circuit caused fire extinguishant to discharge and pop the circuit breaker for a brake fan. Investigation of this incident indicated that the wire loom made contact with the end fittings of the protective conduit. Subsequent inspection of other wire looms, passing through similar conduit assemblies, indicated that the wire looms were incorrectly aligned in the holding clamps; in other instances, the single or double wires were not guided by loop clamps at the end fittings. Subsequent vibration from the airplane caused chafing and the resultant short circuit. Only wire looms and conduits in the wings and horizontal stabilizer are affected by this problem. This condition, if not corrected, could result in an electrical short circuit due to chafing of a wire loom in the wing and the horizontal stabilizer.

Airbus Industrie has issued Service Bulletin A320-24-1044, Revision 1, dated August 23, 1991, which describes procedures for inspection of the wire looms in the wing and the horizontal stabilizer to detect chafing or contact with the end fittings of the protective conduit and repair or replacement. Airbus Industrie has also issued Service Bulletin A320-24-1045, Revision 1, dated August 23, 1991, which describes procedures for protection and realignment of the wire looms in the wing and the horizontal stabilizer. The French DGAC has classified these service bulletins as mandatory and has issued Airworthiness Directive 91-182-020(B) in order to assure the airworthiness of these airplanes in France.

This airplane model is manufactured in France and type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, the French DGAC has kept the FAA totally informed of the above situation. The FAA has examined the findings of the French DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require inspection to detect chafing of the wire looms in the wing and the horizontal stabilizer and repair or replacement, protection, and realignment, if necessary. The actions would be required to be accomplished in accordance with the service bulletins previously described.

It is estimated that 30 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 10 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be nominal in cost. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $16,500.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

## PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**Airbus Industrie:** Docket 91-NM-251-AD.
*Applicability:* Model A320 series airplanes, manufacturer's serial numbers through 169, inclusive, certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent an electrical short circuit due to chafing of the wire loom in the wing and the horizontal stabilizer, accomplish the following:

(a) Prior to the accumulation of 450 hours time-in-service after the effective date of this AD, inspect the wire looms in wing zones 574 and 674 to detect chafing or contact with the end fittings of the protective conduit, in accordance with Airbus Industrie Service Bulletin A320-24-1044, Revision 1, dated August 23, 1991. Repeat this inspection, thereafter, at intervals not to exceed 450 hours time-in-service.

(1) If any wire is found chafed or damaged due to overheating, prior to further flight, repair or replace it in accordance with the Airplane Maintenance Manual.

(2) If any wire loom is found incorrectly guided through the conduit end fitting, prior to further flight, realign and protect the loom in accordance with Airbus Industrie Service Bulletin A320-24-1045, Revision 1, dated August 23, 1991; or in accordance with the temporary repair described in Note 1 of paragraph 2.B.(2)(c) of Airbus Service Bulletin A320-24-1044, Revision 1, dated August 23, 1991.

(b) Prior to the accumulation of 1,500 hours time-in-service after the effective date of this Ad, inspect the wire looms in the wing and horizontal stabilizer, excluding wing zones 574 and 674, to detect chafing or contact with the ending fittings of the protective conduit, in accordance with Airbus Industrie Service Bulletin A320-24-1044, Revision 1, dated August 23, 1991. Repeat this inspection, thereafter, at intervals not to exceed 3,100 hours time-in-service.

(1) If any wire is found chafed or damaged due to overheating, prior to further flight, repair or replace it in accordance with the Airplane Maintenance Manual.

(2) If any wire loom is found incorrectly guided through the end fitting of the conduit, prior to further flight, realign and protect the loom in accordance with Airbus Industrie Service Bulletin A320-24-1045, Revision 1, dated August 23, 1991; or in accordance with the temporary repair described in Note 1 of paragraph 2.B.(2)(c) of Airbus Service Bulletin A320-24-1044, Revision 1, dated August 23, 1991.

(c) Accomplishment of the realignment and protection of the looms in accordance with Airbus Industrie Service Bulletin A320-24-1045, Revision 1, dated August 23, 1991, constitutes terminating action for the repetitive inspections required by paragraphs (a) and (b) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on December 27, 1991.

**James V. Devany,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92-598 Filed 1-9-92; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 39

**[Docket No. 91-NM-233-AD]**

## Airworthiness Directives; Boeing Model 727 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 727 series airplanes, which currently requires that certain landing gear brakes be inspected for wear and replaced if the wear limits prescribed are not met, and that the landing gear brake wear limits be incorporated into the FAA-approved maintenance inspection program. This action would require the inspection of certain additional landing gear brakes, which were not listed in the existing rule, for wear, replacement of the brakes if the wear limits prescribed in this proposal are not met, and the incorporation of new maximum wear limits into the FAA-approved maintenance inspection program. This proposal is prompted by the determination of the allowable wear limits for the additional brakes. The requirements proposed by this action are intended to prevent the loss of braking effectiveness of the landing gear brakes.

**DATES:** Comments must be received no later than February 28, 1992.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 91-NM-233-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124; Allied-Signal Aerospace Company, Bendix Wheels and Brakes Division, South Bend, Indiana 46628; and BFGoodrich Aerospace, Aircraft Wheels and Brakes, P.O. Box 340, Troy, Ohio 45373. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** David M. Herron, Aerospace Engineer, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056, telephone (206) 227-2672, fax (206) 227-1181.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-233-AD." The postcard will be date stamped and returned to the commerter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, Attention: Rules Docket No. 91-NM-233-AD, 1601 Lind Avenue SW., Renton, Washington 98055.4056.

### Discussion

On September 26, 1991, the FAA issued AD 91-18-07, Amendment 39-8010 (56 FR 51162, October 10, 1991), to require that certain landing gear brakes installed on Model 727 series airplanes

be inspected for wear and replaced if the wear limits prescribed are not met, and that maximum wear limits for landing gear brakes be incorporated into the FAA-approved maintenance inspection program. That action was prompted by an accident in which a transport airplane executed a rejected takeoff (RTO) and was unable to stop on the runway. An investigation revealed that 8 out of 10 brakes on the airplane were unable to absorb the required RTO energy, thus contributing to the accident. That condition, if not corrected, could have resulted in loss of brake effectiveness during a high energy RTO and cause further incidents/accidents.

Since issuance of that AD, additional brakes, not included in the original rule, have been evaluated and their maximum allowable brake wear limits have been determined in accordance with the methodology approved by the FAA. The FAA has determined that airplanes equipped with these additional brakes are currently subject to the same unsafe condition addressed in the existing AD and that new maximum brake wear limits must be applied to these brake configurations in order to ensure braking effectiveness.

The FAA has reviewed and approved BFGoodrich Service Bulletins 2-1147-32-13 and 2-1190-32-13, both dated November 26, 1990; and Bendix Service Bulletin 2601182-32-014, dated January 30, 1991; which describe methods for adjusting currently recommended brake wear limits to account for the decreases determined in accordance with the methodology for determining allowable wear accepted by the FAA.

Since the unsafe condition described is likely to exist or develop on other products of this same type design equipped with the addressed brake configurations, the proposed AD would supersede AD 91-18-07 to require that certain additional landing gear brakes be inspected for wear and replaced if the wear limits prescribed are not met, and that maximum landing gear brake wear limits be incorporated into the FAA-approved maintenance inspection program.

This proposal also corrects a typographic error regarding one of the service bulletins referenced in the existing rule.

There are approximately 1,706 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 953 airplanes of U.S. registry and 27 operators would be affected by this proposed AD; 26 airplanes and 13 operators are added by this action; 953 airplanes of U.S. registry would take approximately 15 work hours per airplane to accomplish the required actions, and that the average labor cost would be $55 per work hour. In addition, it is estimated that the cost of parts to accomplish the change in wear limits to 943 of these airplanes (cost resulting from the requirement to change brakes before they are worn to their previously approved limits for a one-time change) is estimated to be an average of $2,500 per airplane. Another 10 airplances would cost an average of $5,580 per airplane. Further, it is estimated that it will require 20 work hours per operator, at an average labor cost of $55 per work hour, to incorporate the requirements into an operator's FAA-approved maintenance inspection program. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,229,225.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Exective Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a signifcant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

## PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

### § 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39-8010 and by adding the following new airworthiness directive:

**Boeing:** Docket No. 91-NM-233-AD. Supersedes AD 91-18-07, Amendment 39-8010.

Applicability: Model 727 series airplanes, equipped with brake part numbers (P/N) identified in Tables 1 and 2 of this AD, certificated in any category.

Compliance required as indicated, unless accomplished previously.

To prevent loss of main landing gear braking effectiveness, accomplish the following:

(a) Within 180 days after November 12, 1991 (the effective date of Amendment 39-8010, AD 91-18-07) inspect the brake part numbers shown in Table 1, below, for wear. Any brake worn more than the maximum wear limit specified must be replaced, prior to further flight, with either a brake within that maximum wear limit or one built in accordance with the appropriate service bulletins specified in paragraphs (c), (d), or (e) of this AD, as applicable.

TABLE 1

| Brake mfr. | Brake P/N | Boeing P/N | Max. wear limit (inches) |
|---|---|---|---|
| BFGoodrich... | 2-1147 | 10-61287-10 | 1.6 |
| BFGoodrich... | 2-1147-1 | 10-61287-12 | 1.6 |
| BFGoodrich... | 2-1147-3 | 10-61287-18 | 1.6 |
| BFGoodrich... | 2-1147-4 | 10-61287-25 | 1.6 |
| BFGoodrich... | 2-1190 | 10-61287-13 | 1.6 |
| Bendix..... | 2601182-6 | 10-61287-23 | 1.7 |

(b) Within 180 days after November 12, 1991 (the effective date of Amendment 39-8010, AD 91-18-07), incorporate the maximum brake wear limits specified in paragraph (a) of this AD into the FAA-approved maintenance program.

(c) The allowable wear limits for BFGoodrich (BFG) brake part numbers 2-1147 and 2-1147-1, -3, and -4 may be established in accordance with BFG Service Bulletin No. 2-1147-32-13, dated December 21, 1990, and placed into the operator's FAA-approved maintenance program in lieu of those specified in paragraph (a) of this AD.

(d) The allowable wear limit for BFGoodrich (BFG) brake part number 2-1190 may be established in accordance with BFG Service Bulletin No. 2-190-32-13, dated December 21, 1990, and placed into the operator's FAA-approved maintenance program in lieu of that specified in paragraph (a) of this AD.

(e) The allowable wear limit for Bendix brake part number 2601182-6 may be established in accordance with Bendix Service Bulletin No. 2601182-32-014, dated January 30, 1991, in lieu of that specified in paragraph (a) of this AD. Either this service bulletin or the wear limit specified in paragraph (a) of this AD shall be placed into

the operator's FAA-approved maintenance program, but not both.

(f) Within 180 days after the effective date of this AD, inspect the brake part numbers shown in Table 2, below, for wear. Any brake worn more than the maximum wear limit specified must be replaced, prior to further flight, with a brake within that maximum wear limit:

TABLE 2

| Brake mfr. | Brake P/N | Boeing P/N | Max. wear limit (inches) |
|---|---|---|---|
| Bendix | 2601182-5 | 10-61287-22 | 1.8. |
| BFGoodrich | 2-872-5 | 10-60465-18 | 0.50. |
| BFGoodrich | 2-873 | 10-60485-1 | 0.43. |

(g) Within 180 days after the effective date of this AD incorporate the maximum brake wear limits specified in Table 2 of paragraph (f) of this AD into the FAA-approved maintenance program.

(h) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(i) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

Issued in Renton, Washington, on December 27, 1991.

**James V. Devany,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92-599 Filed 1-9-92; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 39**

**[Docket No. 91-NM-217-AD]**

## Airworthiness Directives; Boeing Model 737 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice proposes to adopt a new airworthiness directive (AD), applicable to Boeing Model 737 series airplanes, which would require that all landing gear brakes be inspected for wear and replaced if the wear limits prescribed in this amendment are not met, and that the new wear limits be incorporated into the FAA-approved maintenance inspection program. This proposal is prompted by an accident in which a transport category airplane executed a rejected takeoff (RTO) and was unable to stop on the runway. An investigation revealed that eight out of ten brakes were near the maximum allowable wear limits before the RTO and were unable to absorb the required RTO energy, thus contributing to the accident. This condition, if not corrected, could result in loss of brake effectiveness during a high energy RTO and cause further incidents/accidents.

**DATES:** Comments must be received no later than February 28, 1992.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-217-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124; and BFGoodrich Aerospace, Aircraft Wheels and Brakes Division, P.O. Box 340, Troy, Ohio 45373. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. David M. Herron, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S; telephone (206) 227-2672. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-217-AD." The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-217-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

### Discussion

In 1988, a McDonnel Douglas Model DC-10 series airplane was involved in an aborted takeoff accident in which eight of the ten brakes failed and the airplane ran off the end of the runway. Investigation revealed that there were O-rings damaged by over-extension of the pistons due to extensive brake wear on each of the eight brakes. Fluid leaking from the over-extended pistons caused the hydraulic fuses to close, releasing all brake pressure.

This accident prompted a review of the methodology used in the determination of the allowable wear limits for all transport category airplane brakes. Worn brake rejected takeoff (RTO) dynamometer testing and analyses were conducted for the Model DC-10 series brakes and a new set of reduced allowable wear limits were established; the use of these limits for the Model DC-10 is required by AD 90-01-01, Amendment 39-6431 (54 FR 53048, December 27, 1989.

The FAA and the Aerospace Industries Association (AIA) worked together to develop a set of dynamometer test guidelines that could be used to validate appropriate wear limits for all airplane brakes. The final test guidelines were sent from the FAA to the AIA on March 2, 1990. It should be noted that this worn-brake accountability determination validates brake wear limits with respect to brake energy capacity only and is not meant to account for any reduction in brake force due solely to the wear state of the brake. Any reduction in brake force (or torque) that may develop over time as a result of brake wear is to be evaluated and accounted for as part of a separate rulemaking project. The guidelines for validating brake wear limits allow credit for use of reverse thrust to determine

energy level absorbed by the brake during the dynamometer test.

The FAA has requested that U.S. airframe manufacturers (1) determine required adjustments in allowable wear limits for all of its brakes in use, (2) schedule dynamometer testing to validate wear limits as necessary, and (3) submit information from items (1) and (2) to the FAA so that appropriate rulemaking action(s) can be initiated. Boeing Commercial Airplane Group has submitted, and the FAA has evaluated, a series of dynamometer test data and analyses concerning brakes installed on the Model 737 series airplanes. Based on this data, the FAA has determined that the brake wear limits currently recommended in the Component Maintenance Manuals for the Model 737 series airplanes are not acceptable as they relate to the effectiveness of the brakes during a high energy RTO. Further, these limits are only recommended values. The FAA has determined that the following criteria for the Model 737 brakes, specifically the new maximum brake wear limits indicated in the last column, are necessary:

| Vendor | Vendor P/N | Boeing P/N | Vendor service bulletin | Wear limit (inches) |
|---|---|---|---|---|
| Bendix | 2601042-4 | 10-61063-18 | None | 1.36 |
| Bendix | 2601042-3 | 10-61063-14 | None | 1.36 |
| Bendix | 2601042-2 | 10-61063-13 | None | 1.36 |
| Bendix | 2601042-1 | 10-61063-12 | None | 1.36 |
| Bendix | 2601042-5 | 10-61063-21 | None | 1.63 |
| Bendix | 2603442-2 | 10-61819-5 | None | 0.50 |
| Bendix | 2603442-3 | 10-61819-8 | None | 0.50 |
| Bendix | 2606672-1 | 10-61819-14 | None | 1.38 |
| Bendix | 2606672-4 | 10-61819-28 | None | 1.60 |
| Bendix | 2606672-3 | 10-61819-21 | None | 1.60 |
| Bendix | 2606672-2 | 10-61819-17 | None | 1.60 |
| BFG * | 2-1444 | 10-61819-11 | 2-1444-32-5 | 1.50 |
| BFG | 2-1474-5 | 10-61819-31 | 2-1474-32-13, Revision 1 | 1.0 to 1.3 ** |
| BFG | 2-1474-3 | 10-61819-27 | 2-1474-32-13, Revision 1 | 1.0 to 1.3 ** |
| BFG | 2-1474-2 | 10-61819-26 | 2-1474-32-13, Revision 1 | 1.0 to 1.3 ** |
| BFG | 2-1474-1 | 10-61819-22 | 2-1474-32-13, Revision 1 | 1.0 to 1.3 ** |
| BFG | 2-1474 | 10-61819-15 | 2-1474-32-13, Revision 1 | 1.0 to 1.3 ** |
| BFG | 2-1474-5 | 10-61819-31 | 2-1474-32-14, Revision 1 | 1.55 *** |
| BFG | 2-1474-3 | 10-61819-27 | 2-1474-32-14, Revision 1 | 1.55 *** |
| BFG | 2-1474-2 | 10-61819-26 | 2-1474-32-14, Revision 1 | 1.55 *** |
| BFG | 2-1474-1 | 10-61819-22 | 2-1474-32-14, Revision 1 | 1.55 *** |
| BFG | 2-1474 | 10-61819-15 | 2-1474-32-14, Revision 1 | 1.55 *** |
| BFG | 2-1521 | 10-62174-2 | None | 1.00 |

* BFG = BFGoodrich.
** Depending on build (see noted service bulletin).
*** Model 737-200 only.

The FAA has reviewed and approved the following BFGoodrich Service Bulletins:

| Number | Date |
|---|---|
| 2-1444-32-5 | Jan. 24, 1991. |
| 2-1474-32-13, Revision 1 | July 9, 1991. |
| 2-1474-32-14, Revision 1 | June 28, 1991. |

These service bulletins describe methods for ascertaining brake wear and alternative means for meeting the reduced wear limits. These service bulletins also describe procedures for overhauling the brakes.

Since this condition is likely to exist or develop on airplanes of this type design, an AD is proposed which would require (1) inspection of Model 737 landing gear brakes for wear, and replacement if the new wear limits are not met; and (2) incorporation of specific maximum wear limits into the FAA-approved maintenance inspection program.

There are approximately 1,850 Model 737 series airplanes of the affected design in the worldwide fleet. It is estimated that 882 airplanes of U.S. registry and 13 operators would be affected by this AD.

For 619 airplanes of U.S. registry, it would take approximately 15 manhours per airplane to accomplish the required actions, and the average labor cost would be $55 per work hour. In addition, the cost of parts to accomplish the change in wear limits for these 619 airplanes (the cost resulting from the requirement to change brakes before they are worn to their previously approved limits for a one-time change) is estimated to be an average of $2,270 per airplane.

For the remaining 263 airplanes there is no change to the currently recommended allowable wear limits and, therefore, no additional costs associated with this action.

Further, it is estimated that it will require 20 work hours per operator, at an average labor cost of $55 per work hour, to incorporate the requirements into an operator's FAA-approved maintenance inspection program.

Based on the figures discussed above, the total cost impact of the AD on U.S. operators is estimated to be $1,930,105.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

**PART 39—[AMENDED]**

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

**Boeing:** Docket No. 91-NM-217-AD.

*Applicability:* Model 737 series airplanes, equipped with a brake part numbers (P/N) identified in paragraphs (a) through (d) of this AD, certificated in any category.

*Compliance:* Required as indicated, unless previously accomplished.

To prevent the loss of main landing gear braking effectiveness, accomplish the following:

(a) Within 180 days after the effective date of this AD, accomplish the following:

(1) Inspect brakes having the brake part numbers shown below for wear. Any brake worn more than the maximum wear limit specified below must be replaced, prior to further flight, with a brake within that limit.

| Brake mfr. | Brake P/N | Boeing P/N | Max. wear limit (inches) |
|---|---|---|---|
| Bendix | 2601042-1 | 10-61063-12 | 1.36 |
| Bendix | 2601042-2 | 10-61063-13 | 1.36 |
| Bendix | 2601042-3 | 10-61063-14 | 1.36 |
| Bendix | 2601042-4 | 10-61063-18 | 1.36 |
| Bendix | 2601042-5 | 10-61063-21 | 1.63 |
| Bendix | 2603442-2 | 10-61819-5 | 0.50 |
| Bendix | 2603442-3 | 10-61819-8 | 0.50 |
| Bendix | 2606672-1 | 10-61819-14 | 1.38 |
| Bendix | 2606672-2 | 10-61819-17 | 1.60 |
| Bendix | 2606672-3 | 10-61819-21 | 1.60 |
| Bendix | 2606672-4 | 10-61819-28 | 1.60 |
| BFGoodrich | 2-1521 | 10-62174-2 | 1.00 |

(2) Incorporate the maximum brake wear limits specified in paragraph (a)(1) of this AD into the FAA-approved maintenance inspection program.

(b) For airplanes equipped with BFGoodrich Brake Part Number (P/N) 2-1444 (Boeing P/N 10-61819-11): Within 180 days after the effective date of this AD, accomplish the following:

(1) Accomplish the procedures described in paragraph 2.B.(1) of the Accomplishment Instructions of BFGoodrich Service Bulletin 2-1444-32-5, dated January 24, 1991. If any brake is found to be worn more than the allowable brake wear limit specified in Table 1 of that service bulletin, prior to further flight, remove and replace the brake with a brake built in accordance with paragraph 2.B.(1)b. of that service bulletin, or with a brake having more than the allowable wear remaining as specified in Table 1 of that service bulletin.

(2) Incorporate the allowable wear limits specified in Column B of Table 1 of BFGoodrich Service Bulletin 2-1444-32-5, dated January 24, 1991, into the FAA-approved maintenance inspection program.

(c) For airplanes equipped with BFGoodrich Brake P/N 2-1474; 2-1474-1, -2, -3, and -5 (Boeing P/N 10-61819-15, -22, -26, -27, and -31): Within 180 days after the effective date of this AD, accomplish the following:

(1) Accomplish one of the procedures described in paragraph 2.B.(1)a. of BFGoodrich Service Bulletin 2-1474-32-13, Revision 1, dated July 9, 1991. If any brake is found to be worn more than the allowable brake wear limit specified in Table 1 of that service bulletin, prior to further flight, remove and replace the brake with a brake built in accordance with paragraph 2.B.(1)b. of that service bulletin, or with a brake having more than the allowable wear specified in Table 1 of that service bulletin.

(2) Incorporate the procedures described in paragraph 2.B.(1)b. of BFGoodrich Service Bulletin 2-1474-32-13, Revision 1, dated July 9, 1991, into the FAA-approved maintenance inspection program.

(d) For brakes specified in paragraph (c) of this AD and used on Model 737-200 series airplanes only: As an alternative to the requirements of paragraph (c) of this AD, operators instead may accomplish the procedures specified in paragraph (d)(1) and (d)(2) of this AD within 180 days after the effective date of this AD:

(1) Accomplish the procedures described in paragraph 2.B.(1)b. of the Accomplishment Instructions of BFGoodrich Service Bulletin 2-1474-32-14, Revision 1, dated June 28, 1991. If any brake is found to be worn more than the allowable brake wear limit specified in Figure 1 of that service bulletin, prior to further flight, remove and replace the brake built in accordance with paragraph 2.B.(1)b. of that service bulletin, or with a brake having more than the allowable wear remaining as specified in Figure 1 of that service bulletin.

(2) Incorporate the procedures described in paragraph 2.B.(1)b. of the Accomplishment Instructions of BFGoodrich Service Bulletin 2-1474-32-13, Revision 1, dated July 9, 1991, into the FAA-approved maintenance inspection program.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

Issued in Renton, Washington, on December 27, 1991.

**James V. Devany,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92-596 Filed 1-9-92; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 39**

**[Docket No. 91-ANE-05]**

## Airworthiness Directives; Pratt & Whitney (PW) JT9D Series; Turbofan Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice proposes to adopt an airworthiness directive (AD), applicable to PW JT9D series turbofan engines. This proposed AD would require initial and repetitive borescope inspections of high pressure turbine (HPT) stage 2 vane assemblies. This proposal is prompted by reports of uncontained engine failures. These failures were caused by distressed vanes inducing high vibratory stress on HPT stage 2 blades and the lenticular airseal. This condition, if not corrected, could result in uncontained HPT stage 2 blade fractures or lenticular airseal failures.

**DATES:** Comments must be received no later than February 10, 1992.

**ADDRESSES:** Comments on the proposal may be mailed in duplicate to the FAA, New England Region, Office of the Assistant Chief Counsel, Attn: Rules Docket No. 91-ANE-05, 12 New England Executive Park, Burlington, Massachusetts 01803-5299, or may be delivered in duplicate to room 311 at the above address.

Comments may be inspected at the above location in room 311, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable service bulletin may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457, or may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts.

**FOR FURTHER INFORMATION CONTACT:** Daniel Kerman, Engine Certification Branch, ANE-141, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington,

Massachusetts 01803–5299; telephone (617) 270–2410.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 91–ANE–05." The postcard will be date/time stamped and returned to the commenter.

## Discussion

The FAA has determined that malfunctioning rule nozzles or poor vane cooling baffle fit can result in distressed HPT stage 2 vanes. Distressed HPT stage 2 vanes generate an airflow disruption and excessive vibratory excitation on adjacent turbine components. This condition, if not corrected, could result in uncontained HPT stage 2 blade fractures or lenticular airseal failures.

The FAA has reviewed and approved the technical contents of PW Service Bulletin (SB) Number 5667, Revision Number 1, dated September 13, 1989, which describes procedures and criteria for initial and repetitive borescope inspections in order to maintain acceptable HPT stage 2 vane condition.

Since this condition is likely to exist or develop on other engines of the same type design, and AD is proposed which would require initial and repetitive on-wing borescope inspections for distress of the HPT stage 2 vanes installed on PW JT9D–59A, –70A, –7Q, and –7Q3 turbofan engines, in accordance with the SB previously described.

There are approximately 602 PW JT9D–59A, –70A, –7Q, and –7Q3 turbofan engines of the affected design in the worldwide fleet. It is estimated that 125 engines on aircraft of U.S. Registry would be affected by this AD, and that the inspection would be performed approximately 6 times annually. It is estimated that the inspections would take approximately 2 manhours per engine to accomplish the required actions, and that the average labor cost would be $55 per manhour. Based on these findings, the total cost impact of the AD on U.S. operators is estimated to be $82,500 annually.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

## The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) proposes to amend 14 CFR part 39 of the Federal Aviation Regulations (FAR) as follows:

## PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**Pratt & Whitney:** [Docket No. 91–ANE–05].

Applicability: Pratt & Whitney (PW) JT9D–59A, –70A, –7Q, and –7Q3 turbofan engines installed on, but not limited to Boeing 747, McDonnell Douglas DC–10, and Airbus A300 aircraft, in which the following high pressure turbine (HPT) stage 2 vane assemblies, identified by cluster and vane assembly part numbers, are installed:

| Cluster Assembly Part No. | Vane Assembly Part No. |
|---|---|
| 743772 | 741992, 800842 |
| 774872 | 774772, 774782, 774792, 800182, 800192, 800582 |
| 806272 | 806372, 805782, 805492, 805382, 805392, 805482, 806872, 806682, 806592, 806482, 806192, 806582 |
| 807372 | 806782, 805892, 806882 |
| 807772 | 807672, 807082, 807092 |

*Compliance:* Required as indicated, unless previously accomplished.

To prevent uncontained HPT stage 2 blade fractures or lenticular airseal failures, accomplish the following:

(a) For engines that have not incorporated the requirements of PW Service Bulletin (SB) 5566, Revision 5, dated August 10, 1990, and the requirements of PW SB 5428, Revision 3, dated March 12, 1984, borescope inspect the HPT stage 2 vanes in accordance with the Accomplishment Instructions of PW SB 5667, Revision 1 dated September 13, 1989, and in accordance with the applicable PW Maintenance Manual (MM) listed in paragraph (c) of this AD, prior to accumulating 1,000 hours time in service (TIS) since vane installation, or within the next 125 hours TIS after the effective date of this AD, whichever occurs later, and remove from service, prior to further flight, second stage turbine vanes exhibiting distress beyond serviceable limits.

(b) For engines that have incorporated the requirements of PW SB 5566, Revision 5, dated August 10, 1990, and PW SB 5428, Revision 3, dated March 12, 1984, borescope inspect the HPT stage 2 vanes in accordance with the Accomplishment Instructions of PW SB 5667, Revision 1, dated September 13, 1989, and in accordance with the applicable PW MM listed in paragraph (c) of this AD, prior to accumulating 2,000 hours total part TIS since new on the entire set of vanes, or within 1,000 hours TIS since vane installation, or within the next 125 hours TIS after the effective date of this AD, whichever occurs latest, and remove from service, prior to further flight, second stage turbine vanes exhibiting distress beyond serviceable limits.

(c) Thereafter, reinspect the HPT stage 2 vanes in accordance with the criteria identified in the following Pratt & Whitney MM, and remove from service, prior to further flight, HPT stage 2 vanes exhibiting distress beyond serviceable limits.

| Engine models | MM part No./ Revision date | Section/table |
|---|---|---|
| JT9D—7Q/7Q3 | 783777/Dec. 25, 1989. | 72-00-00/604A |

| Engine models | MM part No./ Revision date | Section/table |
|---|---|---|
| JT9D—59A/ 70A. | 783778/Apr. 25, 1990. | 72-00-00/605A |
| JT9D—59A..... | 783779/Sept. 15, 1989. | 72-00-00/605 |

(d) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(e) Upon submission of substantiating data by an owner or operator through an FAA Inspector (maintenance, avionics, operations, as appropriate) an alternative method of compliance Certification Office, ANE-140, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803-5299.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Pratt & Whitney Publications Department, P.O. Box 611, Middletown, Connecticut 06457. These documents may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts.

Issued in Burlington, Massachusetts, on December 20, 1991.

**Jack A. Sain,**

*Manager, Engine and Propeller Directorate Aircraft Certification Service.*

[FR Doc. 92-592 Filed 1-9-92; 8:45 am]

BILLING CODE 4910-13-M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 240

**[Release No. 34-30148; File No. S7-1-92]**

**RIN 3235-AE20**

## Notice of Assumption or Termination of Transfer Agent Services

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Securities and Exchange Commission is publishing for comment new rule 17Ad-16 which would require a registered transfer agent to provide written notice to at least one registered securities depository when terminating or assuming transfer agent services on behalf of an issuer or when changing its name or address. The proposed rule would address a continuing problem of unannounced transfer agent changes which affect the prompt transfer of securities certificates.

**DATES:** Comments must be received on or before February 10, 1992.

**ADDRESSES:** Persons wishing to submit written reviews, data and comments should file three copies with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Mail Stop 6-9, Washington, DC 20549. Comment letters should refer to File No. S7-1-92 and will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth St. NW., Washington, DC 20549.

**FOR FURTHER INFORMATION CONTACT:** Anthony Bosch at (202) 272-2775, Attorney, Branch of Transfer Agent Regulation, Division of Market Regulation, Securities and Exchange Commission, Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission ("Commission") is proposing for public comment new rule 17Ad-16 ("Rule") under the Securities Exchange Act of 1934 ("Act") that, if adopted, would amend title 17, chapter II, part 240 of the Code of Federal Regulations. The rule as proposed would require registered transfer agents to notify at least one securities depository of changes in the transfer agent's name, address and securities for which it performs transfer agent functions.[1]

### I. Introduction

Section 17A(d)(1) of the Act provides, among other things, that no registered transfer agent shall engage in any activity in contravention of any rules and regulations that the Commission may promulgate "as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of (the Act)." [2] Pursuant to that grant of authority, the Commission has adopted rules that establish minimum performance standards for registered transfer agents in connection with the timely cancellation and issuance of securities certificates.[3] Those standards are designed to assure, among other things, that registered transfer agents expeditiously process items presented for transfer. The standards presuppose that securityholders will know, based on an examination of the certificate they intend to present for cancellation, the name and address of the transfer agent the issuer has assigned to perform transfer agent functions. As discussed in greater detail below, that presumption may not be valid in many cases.

Proposed rule 17Ad-16 would address a current and continuing problem of transfer delays due to unannounced transfer agent changes, including the change of a transfer agent for a particular issue and the change of name or address of a transfer agent. The rule is designed to require transfer agents to send a notice to the appropriate qualified securities depository [4] when assuming or terminating transfer agent services on behalf of an issuer or when changing its name or address. The proposal is supported by various entities in the securities industry, including the Depository Trust Company ("DTC"), Midwest Securities Trust Company ("MSTC"), Philadelphia Depository Trust Company ("Philadep"), Corporate Transfer Agents Association, Inc.[5] ("CTA") and Securities Transfer Association ("STA").[6]

### II. Basis, Purpose and Discussion

Timely securities certificate transfer is necessary for the efficiency of the National System for the Clearance and Settlement of Securities Transactions ("National System"). As part of the effort to ensure quick turnaround of certificate transfers, transfer agents must timely cancel and issue securities

[1] In accordance with section 17A(d)(3)(A)(i) of the Act, the Commission consulted with and requested views of the federal bank regulatory agencies at least 15 days prior to this announcement.

[2] Section 17A(c)(1) of the Act requires transfer agents who perform transfer agent functions with respect to any security registered under section 12 of the Act or which would be required to be registered except for the exemption from registration provided by subsection (g)(2)(B) or (g)(2)(G) of that section to be registered with the Commission. Section 3(a)(25) of the Act defines transfer agents as any person who engages on behalf of an issuer of securities or on behalf of itself as an issuer of securities in (A) countersigning such securities upon issuance; (B) monitoring the issuance of such securities with a view to preventing unauthorized issuance, a function commonly performed by a person called a registrar; (C) registering the transfer of such securities; (D) exchanging or converting such securities; or (E) transferring record ownership of securities by book-keeping entry without physical issuance of securities certificates.

[3] See, *e.g.*, 17 CFR 240.17Ad-7.

[4] A "qualified registered securities depository" would be defined as a securities depository registered as a clearing agency under section 17A of the Act that has rules and procedures approved by the Commission under section 19 of the Act concerning its responsibility to maintain, update, and provide adequate access to the information it receives pursuant to this proposed rule.

[5] The CTA is a trade organization consisting of representatives of corporations that are involved with their organization's shareholder services, such as certificate transfer, dividend distribution and proxy statements.

[6] The STA is the largest transfer agent association in the United States. Its membership includes all the large New York bank transfer agents and encompasses the regional transfer agent associations.

certificates presented for transfer.[7] Efficient transfer turnaround, however, cannot occur when transfer requests are directed to the wrong transfer agent or to the wrong address. The transfer request must be returned to the party requesting the transfer, who then must ascertain the correct transfer agent or address. Even worse, in some instances a transfer request may not be returned to the requesting party, resulting in loss of securities certificates. Transfer delays cause acute problems for registered securities depositories—DTC, MSTC and Philadep—which hold a large number of certificates for safekeeping and have a large daily volume of certificate transfers.[8] These delays also affect depository participants (*e.g.*, banks and broker-dealers) and their customers (*i.e.*, shareholders) in the form of increased delays, costs and risks. The depositories hold securities certificates in their nominee name in safekeeping for the benefit of participants and their customers. When a participant deposits securities into a depository, the depository usually credits the participant's account for the deposit and sends the certificates to the issuer's transfer agent with instructions to transfer the certificate into the depository's nominee name. Whenever transfer delays occur, a depository faces an increased risk of lost certificates. A depository also has an increased potential liability because it credits participants' accounts on the day certificates are presented for deposit. If some deposited certificates presented for transfer were counterfeit or reported stolen, the depository would not become aware of these facts and be in a position to take corrective action until after the certificates have been resubmitted to the new transfer agent or delivered to the transfer agent's new address. Similar risks and costs also are present when the depository sends certificates in nominee name to be transferred into the name of a participant or a participant's customer.

[7] Rule 17Ad-2 (17 CFR 240.17Ad-2) establishes mandatory timeframes within which registered transfer agents must complete the majority of routine transfer requests. Transfer agents that receive more than 500 items in a six month period must turnaround within three days 90% of the routine items received each month. Routine items that are not turned around within three days and non-routine items must be turned around promptly. A registered transfer agent for depository eligible securities that during the previous six consecutive months receives fewer than 500 items for transfer and fewer than 500 items for processing, must turnaround 90% of the routine items received within five days.

[8] DTC, for example, presents an average of 100,000-120,000 certificates for transfer each business day.

The costs of unannounced transfer agent changes can be significant for depositories and broker-dealers. DTC estimates that its annual minimum cost for dealing with unannounced transfer agent changes is approximately $200,000.[9] Much of that cost is attributed to locating the correct transfer agent for the issue or the transfer agent's correct address to send the certificates for transfer. In addition, DTC surveyed thirteen of its largest broker-dealer participants that account for 52% of all DTC processed transfers. During 1990, those firms estimated cumulative costs of $573,000 for processing transfers delayed because of unannounced transfer agency changes.[10] Many of the firms noted that not included in their estimates were other costs not easily quantifiable, such as the increased possibility of certificate losses as well as increased customer dissatisfaction.

Industry participants have taken steps to reduce the number of aging transfers. For example, in recent years DTC has nearly doubled its aging transfer department staff to handle the increased number of delayed transfers. That department attempts to speed transfer in the case of transfer delay by contacting transfer agents repeatedly to determine where to send certificates for transfer. Despite these and other efforts, however, unannounced transfer agent changes still hamper the goal of timely transfer of securities certificates.

Proposed rule 17Ad-16 would require a registered transfer agent to send a notice to the appropriate qualified registered securities depository within two days of: (i) Terminating transfer service performed on behalf of an issuer; (ii) assuming transfer service on behalf of an issuer; or (iii) changing its name or address. The notice should include: (i) whether it is being sent to the appropriate qualified registered securities depository or to all qualified registered securities depositories; (ii) the issuer's name; (iii) the issue or issues handled and their CUSIP number(s); and (iv)(a) if the agent is assuming the transfer service, the full name, address and telephone number of the transfer agent; or (b) if the transfer agent is terminating transfer service, the name, address, and telephone number of the new transfer agent; or (c) if no successor is known, the name and address of a contact person at the issuer. In order for the Commission to determine whether to require a transfer agent to include the issue or issues handled and their CUSIP number(s) in a notice to qualified registered depositories when the transfer agent is only reporting a name change, the Commission invites commentators to address this issue. The Commission also invites commentators to address whether to require a transfer agent to include the issue or issues handled and their CUSIP number(s) in a notice to qualified registered depositories when the transfer agent is only reporting an address change. Commentators supporting the inclusion of issues and CUSIP numbers in notices of name and address changes should state the benefits of including such information.

The registered transfer agent would send the notice to the appropriate qualified registered securities depository.[11] As defined in proposed rule 17Ad-16, the appropriate qualified securities depository is the qualified registered depository that as of the most recent record date, is the largest holder of record of all qualified securities depositories on that date. The transfer agents should be able to determine this easily by examining the master securityholder file and determining which of the three qualified securities depositories is the largest shareholder of record. An alternative way for the transfer agent to comply with rule 17Ad-16 would be for the transfer agent to send the notice to all three registered securities depositories that handle corporate and municipal securities.[12]

Upon receipt of a notice from a transfer agent as required by proposed rule 17Ad-16, proposed rule 17Ad-16 would require the appropriate qualified registered securities depository, within 24 hours of receipt, to transmit the notice through electronic or other means to the other registered depositories, its participants, and any other persons the Commission may designate by order. Proposed subsection (d) of the rule would require the appropriate qualified registered securities depository to make and keep a record of all the notices it receives and make the notices available

[9] Conversation between Carl Urist, Associate Counsel, DTC, and Jonathan Kallman, Assistant Director, Division of Market Regulation, Commission.

[10] *Id.* In 1989, DTC initially surveyed those brokers and estimated that the cumulative cost for delays because of unannounced transfer agent changes for 1988 was $673,000.

[11] Under the proposed rule, notices would be required to be sent by means of "secure communication," which would include telegraph, overnight mail, or facsimile.

[12] Although PTC is a registered securities depository, all of its issues are currently issued by one issuer, the Government National Mortgage Association. Thus, only transfer agents of issuers of securities that are depository eligible at DTC, MSTC, and Philadep would be required to file notice of change of transfer agent service on behalf of an issuer or a name or address change.

to the Commission and other persons as the Commission may, by order, designate.[13]

The Commission anticipates that the costs savings, risk reduction and increase in efficiency to the depositories and others in the securities industry under this rule would be significant and would impose minimal burden on transfer agents. Indeed, in the event the routine trade settlement timeframe is shortened from five to three business days, the need for broker-dealers and other market professionals to know transfer agent changes will be even greater.

The Commission believes that the cost of complying with the proposed rule will not be substantial. A transfer agent changing its name or address or assuming or terminating transfer agent services on behalf of an issuer would be required to send only a single written notice of the change to the appropriate qualified registered securities depository. The cost of such notice, for personnel, preparation and postage, would be minimal. No further action by the transfer agent need be taken.[14] Meanwhile, the depositories and their participants would incur less cost in researching and locating the transfer agent for an issue.

The Commission believes that requiring transfer agents to send the notice of transfer agent changes to the qualified registered securities depository is a logical choice. Because the appropriate qualified registered securities depository will presumably hold the largest number of certificates, and as a result have a large volume of transfers, it also will have the greatest problems with transfer delays and the greatest need for prompt notice. The Commission invites comments regarding the designation of the appropriate qualified registered securities depository or any other entity as the Commission's designee to receive notice of transfer agent changes.

## III. Regulatory Flexibility Act Certification

Section 603(a) [15] of the Administrative Procedure Act,[16] as amended by the Regulatory Flexibility Act (the "Flexibility Act"),[17] generally requires the Commission to undertake a Regulatory Flexibility Act Analysis of all proposed rules or proposed rule amendments to determine the impact of such rulemaking on "small entities." [18] Section 605(a) of the Flexibility Act, however, specifically exempts from that requirement any proposed rule or proposed rule amendment for which the Chairman of the Commission certifies that, if adopted, would not have a "significant economic impact on a substantial number of 'small entities.'

Approximately 1000 registered transfer agents qualify as "small entities" for purposes of the Flexibility Act and would be subject to the notice requirement of proposed § 240.17Ad-16. The benefits of proposed rule 17Ad-16 would outweigh any costs to transfer agents. Transfer agents with no name or address changes and with no change in the issues for which they provide services will not be affected by this rule and will not need to send any notice. Most transfer agents that qualify as "small" transfer agents likely will fall into this category.

Compliance cost would be minimal for transfer agents even when the rule applies. A transfer agent that assumes or terminates services on behalf of an issuer or changes its name or address need only send a short notice to one of three registered securities depositories explaining the change. The appropriate qualified registered securities depository will communicate the change to other registered securities depositories. The Commission preliminarily believes that filing such a notice will not impose significant cost on any transfer agent. For these reasons, Chairman Richard C. Breeden has certified, pursuant to section 605(b) of the Flexibility Act, that proposed sections and amendments, if adopted, will not have a significant economic impact on a substantial number of small entities.

## IV. Burden on Competition

The Commission believes that the proposed rule will not have a significant impact on transfer agent competition. Transfer agents only have to send a notice when there is a change of an issue or a name or address change. Even when a transfer agent is required to send a notice of a change, the cost of compliance is insignificant. Moreover, the burden to send such notices should fall mainly on larger transfer agents who have more issues because these agents are more likely to have issue changes that would require them to send notices under the proposed rule.

## V. Statutory Basis

Pursuant to the Securities Exchange Act of 1934 and particularly sections 3, 17, 17A and 23(a) thereof, 15 U.S.C. 78c, 78q, 78q-1 and 78w(a), the Commission proposes to add § 240.17Ad-16 in chapter II of title 17 of the Code of Federal Regulations in the manner set forth below.

## List of Subjects in 17 CFR Part 240

Reporting and recordkeeping, Securities.

## Text of the Amendments

In accordance with the foregoing, title 17, chapter II of the Code of Federal Regulations is proposed to be amended as follows:

## PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77s, 77ttt, 78c, 78d, 78l, 78j, 78l, 78m, 78n, 78o, 78p, 78s, 78w, 78x, 79q, 79t, 80a-29, 80a-37, unless otherwise noted.

2. Section 240.17Ad-16 is added to read as follows:

### § 240.17Ad-16 Notice of assumption of termination of transfer agent services.

(a) A registered transfer agent that ceases to perform transfer agent services on behalf of an issuer of securities shall send written notice of

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[13] In the future, the Commission may direct, by order, that the notices sent to the qualified registered securities depositories be made available to others. For instance, the Commission may determine it is appropriate to have copies of the notice sent to the Commission's designee to operate the Lost and Stolen Securities Program ("Program") to facilitate Program operations.

[14] Under the proposed rule the transfer agent would report the change to the appropriate qualified registered depository, which would communicate the change to the other registered depositories.

[15] 5 U.S.C. 603(a).

[16] 5 U.S.C. 551, et seq.

[17] Pub. L. No. 96-354 (September 19, 1980), 94 Stat. 1164, *reprinted in* (1980) U.S. Code Cong. & Ad. News 1169.

[18] Although section 601(b) of the Flexibility Act defines the term "small entity," the statute permits agencies to formulate their own definitions. The Commission published final definitions of the term "small business" and "small organization" in Securities Exchange Act Release No. 6380 (February 4, 1982) (47 FR 5215). Section 240.0-10(h) defines a small transfer agent for purposes of the Flexibility Act as follows:

For purposes of the Commission rulemaking in accordance with the provisions of Chapter six of the Administrative Procedure Act (5 U.S.C. 551, et seq.) and unless otherwise defined for purposes of a particular rulemaking proceeding, the term "small business" or "small organization" shall—

* * * * *

(h) When used with reference to a transfer agent, mean a transfer agent that:

(1) Received less than 500 items for transfer and less than 500 items for processing during the preceding six months (or in the time that it has been in business, if shorter);

(2) Maintained master shareholder files that in the aggregate contained less than 1,000 shareholder accounts or was the named transfer agent for less than 1,000 shareholder accounts at all times during the preceding fiscal year (or in the time that it has been in business, if shorter); and

(3) Is not affiliated with any person (other than a natural person) that is not a small business or small organization under this section.

such to qualified registered securities depositories or the appropriate qualified registered securities depository no later than two business days after the effective date of such termination. Such notice shall include the issuer's name; the issue or issues handled and their CUSIP number(s); and if known, the name, address and telephone number of the transfer agent which thereafter will provide transfer services for the issuer. If no successor transfer agent is known, the notice shall include the name and address of a contact person at the issuer.

(b) A registered transfer agent which changes its name or address or which assumes transfer agent services on behalf of an issuer of securities shall send written notice of such to qualified registered securities depositories or the appropriate qualified registered securities depository no later than two business days after the effective date of assuming these duties or changing its name or address. Such notice shall include the issuer's name; the issue or issues handled and their CUSIP number(s); the full name, address and telephone number of the transfer agent; and the location where certificates are received for transfer.

(c) The notice described in paragraphs (a) and (b) of this section shall:

(1) State whether it is being sent to the appropriate qualified registered securities depository or to all qualified registered securities depositories; and

(2) Be delivered by means of secure communication. For purposes of this section, secure communication shall include telegraph, overnight mail, facsimile or any other form of secure communication.

(d) A qualified registered securities depository which receives notices pursuant to paragraphs (a) and (b) of this section shall deliver, by means of secure communication, a copy of such notices to each registered securities depository, and to its own participants. A qualified registered securities depository which receives notices pursuant to paragraphs (a) and (b) of this section shall maintain such notices for a period of not less than two years, the first six months in an easily accessible place. Such record shall be made available to the Commission or other persons as the Commission may designate by order. A registered transfer agent which provides notice pursuant to paragraphs (a) and (b) of this section shall maintain such notice for a period of not less than two years, the first six months in an easily accessible place.

(e) For purposes of this section, a "qualified registered securities depository" shall mean a clearing agency registered under section 17A of the Act that performs clearing agency functions as described in section 3(a)(23)(A)(i) of the Act and that has rules and procedures approved by the Commission pursuant to section 19 of the Act concerning its responsibility for maintaining, updating and providing appropriate access to the information it receives pursuant to paragraphs (a) and (b) of this section.

(f) For purposes of this section an "appropriate qualified registered securities depository" shall mean a qualified securities registered depository that as of the most recent record date, is the largest holder of record of all qualified securities depositories on that date.

By the Commission.

Dated: January 6, 1992.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 92-653 Filed 1-9-92; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

### 19 CFR Parts 353 and 355

**[Docket No. 910937-1237]**

**RIN 0625-AA35**

### Antidumping and Countervailing Duties

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice of proposed rulemaking and request for public comments.

**SUMMARY:** The International Trade Administration ("ITA") proposes to establish regulations which will set forth the circumstances in which the ITA will correct significant ministerial errors made in preliminary antidumping and countervailing duty determinations. The regulations also will establish the procedures to be used by parties to the proceeding in requesting the correction of significant ministerial errors. The regulations are intended to improve the administration of the antidumping and countervailing duty provisions of the Tariff Act of 1930, as amended.

**DATES:** Written comments will be considered if received not later than March 10, 1992.

**ADDRESSES:** Address written comments (10 copies) to Alan M. Dunn, Assistant Secretary for Import Administration, room B-099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. Comments should be addressed: Attention: Notice of Proposed Rulemaking/Significant Ministerial Errors. Each person submitting a comment should include his or her name and address, and give reasons for any recommendation.

**FOR FURTHER INFORMATION CONTACT:** William D. Hunter, Deputy Chief Counsel for Import Administration, Office of the Chief Counsel for Import Administration, (202) 377-1411.

**SUPPLEMENTARY INFORMATION:**

#### Classification

*Executive Order 12291*

The ITA has determined that the proposed regulations concerning the correction of significant ministerial errors under 19 Code of Federal Regulations ("CFR") parts 353 and 355 are not a major rule as defined in section (1)(b) of Executive Order 12291 (46 FR 13191 (1981)) because they will not: (1) Have a major monetary effect on the economy; (2) result in a major increase in costs or prices; or (3) have a significant adverse effect on competition (domestic or foreign), employment, investment, productivity, or innovation.

*Executive Order 12612*

These proposed regulations do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612 (52 FR 41685 (1987)).

*Paperwork Reduction Act*

These proposed regulations will not impose a collection of information requirement for purposes of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

*Regulatory Flexibility Act*

The General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed regulations will not have a significant economic impact on a substantial number of small business entities because, to the extent it clarifies the procedures for correcting significant ministerial errors made in preliminary antidumping and countervailing duty determinations, the rule simply improves the administration of the antidumping duty and countervailing duty provisions of the Tariff Act of 1930, as amended. As a result, a Regulatory Flexibility Analysis was not prepared.

**Background**

Section 1333 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418; August 23, 1988) ("1988 Act") required the Department of Commerce to establish procedures for the correction of ministerial errors in final determinations made in antidumping and countervailing duty investigations and reviews. In accordance with section 1333, the Department promulgated 19 CFR 353.28 and 355.28. See Interim-Final Rules, 55 FR 9046 (1990).

Section 1333, however, did not require the Department to establish procedures for the correction of ministerial errors made in preliminary determinations pursuant to 19 CFR 353.15, 353.22, 355.15, and 355.22, and 353.28 and 355.28 did not establish such procedures. Thus, until recently, the policy of the Department has been to deny requests for the correction of ministerial errors made in preliminary determinations.

This policy was based on several factors. First, a preliminary determination, by its very nature, is subject to change and correction in a final determination. Second, the Department believed that the impact of a preliminary determination was always insignificant compared to the impact of a final determination. Finally, because of the tight statutory deadlines under which it operates, the Department has limited time and resources to devote to the correction of ministerial errors made in a preliminary determination. Essentially, the issue involves a balancing of the need for accuracy in a preliminary determination versus the need to issue a timely, complete, and accurate final determination. In the past, the Department concluded that, on balance, the better policy was to reject requests to correct errors made in a preliminary determination and to devote its limited resources to activities relating to the preparation of the final determination. Any ministerial errors in a preliminary determination could be corrected in a final determination.

Recently, however, in the context of two separate investigations, the Department has reexamined its policy against correcting ministerial errors in preliminary determinations. The Department has concluded that it should modify its prior policy, at least with respect to antidumping and countervailing duty investigations.

While it remains true that errors made in a preliminary determination can be corrected in a final determination, a preliminary determination in an investigation does have a significant impact. If a preliminary determination is affirmative, the *status quo* changes for the first time in that the Department orders the suspension of liquidation and the imposition of provisional measures. See 19 CFR 353.15(a)(3), 355.15(a)(3). Conversely, if a preliminary determination is negative solely due to a ministerial error, a petitioner currently must wait until the final determination for the error to be corrected and relief to be provided.

In addition, for entries made between the effective date of a preliminary affirmative determination in an investigation and a final affirmative injury determination by the U.S. International Trade Commission (or, in the case of countervailing duty investigations conducted pursuant to section 303 of the Tariff Act of 1930, as amended, 19 U.S.C. 1303, a final affirmative determination by the Department), the dumping margin or subsidy rate set forth in a preliminary determination serves as the automatic assessment rate unless a party requests an administrative review pursuant to 19 CFR 353.22 or 355.22. Under the Department's prior policy, parties affected by an erroneous preliminary dumping margin or subsidy rate were forced either to request a full-blown administrative review or to accept an erroneous automatic assessment rate. Administrative reviews consume a good deal of the resources of both the Department and private parties, and if some reviews could be avoided altogether by establishing a separate mechanism for correcting errors in the automatic assessment rate, such a result would be in the public interest.

In short, a preliminary determination in an investigation has a unique significance, and a complete prohibition against the correction of ministerial errors appears inappropriate as a matter of policy. On the other hand, the statutory deadlines for completing an investigation remain tight, and the Department's resources are limited. If the Department attempted to correct all ministerial errors made in preliminary determinations, the ability of the Department to issue final determinations in a timely and thorough manner would be compromised. In balancing the competing concerns of accuracy and timeliness, the Department has concluded that it is not appropriate to correct all ministerial errors made in preliminary determinations, but that it is appropriate to correct "significant" ministerial errors made in preliminary determinations. Indeed, in two recent cases, the Department departed from its prior policy, and corrected ministerial errors made in preliminary determinations. See Sweaters Wholly or in Chief Weight of Man-Made Fiber from Hong Kong, 55 FR 19289 (1990); and Steel Wire Rope from India, 56 FR 6837 (February 20, 1991).

On the other hand, the Department has concluded that it is not appropriate to establish procedures for correcting ministerial errors made in preliminary results issued during the review phase of an antidumping or countervailing duty proceeding. See 19 CFR 353.22, 355.22. Unlike a preliminary determination made in an investigation, a preliminary results of review has no direct legal consequences. It does not result in the suspension of liquidation and the imposition of provisional measures, nor does it result in a change to any existing cash deposit requirement. The sole purpose of a preliminary results of review is to provide the parties with an opportunity to comment on the Department's initial analysis. At the same time, the deadlines for completing administrative reviews remain tight. Although the Department has not always met these deadlines in the past, it is gradually eliminating its so-called "review backlog," and intends to meet its deadlines for reviews in the future. The ability of the Department accomplish these objectives would be impaired if the Department had to devote limited resources to the correction of preliminary results of reviews. Therefore, in balancing the competing concerns of accuracy and timeliness, the Department has concluded that it is not appropriate to correct ministerial errors in preliminary results of reviews. Such errors can be corrected in the final results of reviews.

**Explanation of the Proposed Rules**

The purpose of the proposed rules is to set forth the circumstances in which the Department will correct ministerial errors in a preliminary determination and the procedures to be followed by parties seeking corrections. The proposed rules would amend 19 CFR 353.15(g) and 355.15(h). In general, the proposed rules are based on the procedures set forth in §§ 353.28 and 355.28 for correcting ministerial errors in final determinations. The deadline for requesting disclosure is tied to the date on which a preliminary determination is made public, not the date on which the preliminary determination is published in the **Federal Register**.

The most important difference between §§ 353.28 and 355.28 and the proposed rules is that the procedures set forth in the proposed rules are limited to "significant" ministerial errors. Under the proposed rules, a ministerial error would be "significant" if correction of

the error, either singly or in combination with other errors: (1) Would result in a change of at least 5 absolute percentage points, but not less than 25 percent of the original (erroneous) preliminary dumping margin or net subsidy; or (2) would account for the difference between a dumping margin or net subsidy of zero (or *de minimis*) and any dumping margin or net subsidy greater than *de minimis* (*i.e.*, greater than 0.5 percent *ad valorem*). 19 CFR 353.6, 355.7.

In addition, the proposed rules set forth an accelerated procedure for identify and correcting ministerial errors. First, the proposed rule requires that parties desiring disclosure request disclosure by the fifth business day prior to the scheduled (statutory) due date for the preliminary determination. The Department believes this requirement to be reasonable, because active participants in investigations generally request and obtain disclosure, and they know of their need for disclosure well in advance of the preliminary determination.

Second, the Department is imposing strict deadlines on itself, as well as the parties, by requiring (1) that the Department complete disclosure within two business days of publicly announcing a preliminary determination; (2) that the Department give parties to the proceeding until the end of the fifth business day after the announcement of the preliminary determination to identify and quantify alleged significant ministerial errors; and (3) that the Department resolve the allegation of significant ministerial errors by the tenth business day following the public announcement of the original preliminary determination.

This accelerated schedule is dictated by the limited availability of staff analysts during the time between a preliminary determination and a final determination. More specifically, following the issuance of a preliminary determination, the analysts who are most familiar with a case (and, therefore, in the best position to analyze allegations of errors and make appropriate corrections) must prepare for, travel to, and conduct verification—usually in several locations and often in more than one country. Thereafter, the analysts must prepare detailed verification reports, analyze arguments submitted in briefs and at a hearing, and prepare the final determination. Verification usually begins within 15–20 days of the issuance of a preliminary determination. Thus, there is only a very short period of time in which analysts can consider allegations of ministerial errors before they must devote their full time to completion of the final determination. Accordingly, the procedures proposed herein are designed to have allegations of ministerial errors resolved within that short time period.

Finally, unlike the procedures established under §§ 353.28 and 355.28, these proposed rules do not permit parties to comment on another party's allegations of significant ministerial errors. Based on our experience in administering §§ 353.28 and 355.28, the Department has found that there rarely is any genuine issue as to whether an error is or is not ministerial in nature. Moreover, as noted above, allegations of ministerial errors made in a preliminary determination must be resolved within a short time period. If a party believes that the Department has made an inappropriate correction, it may present its arguments in its briefs and at the hearing.

**Drafting Information**

The principal author of this document is William D. Hunter, Deputy Chief Counsel for Import Administration, U.S. Department of Commerce.

**List of Subjects in 19 CFR Parts 353 and 355**

Business and industry, Foreign trade, Imports, Trade practices.

Dated: January 7, 1992.

**Alan M. Dunn,**

*Assistant Secretary for Import Administration.*

For the reasons stated, it is proposed that 19 CFR parts 353 and 355 be amended as follows:

## PART 353—[AMENDED]

1. The authority citation for part 353 continues to read as follows:

**Authority:** 5 U.S.C. 301, and subtitle IV, parts II, III, and IV of the Tariff Act of 1930, as amended by Title I of the Trade Agreements Act of 1979, Pub. L. 96–39, 93 Stat. 150, and section 221 and Title VI of the Trade and Tariff Act of 1984, Pub. L. 98–573, 98 Stat. 294, and Title I, subtitle C, part II of the Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100–418, 102 Stat. 1107 (1988).

2. Section 353.15 is amended by revising paragraph (g) to read as follows:

**§ 353.15 Preliminary determination.**

* * * * *

(g) *Disclosure and correction of significant ministerial errors*—(1) *In general.* No later than two business days after the public announcement of the Secretary's preliminary determination, the Secretary will disclose the calculations performed in connection with a preliminary antidumping duty determination pursuant to paragraph (a) of this section to any party to the proceeding making a request in accordance with this paragraph. A party to the proceeding must file such a request in writing with the Secretary no later than five business days prior to the scheduled date for the Secretary's preliminary determination. A party to whom the Secretary has disclosed preliminary calculations may submit comments alleging that a significant ministerial error has occurred in such calculations.

(2) *Time limits.* Comments must be filed no later than the fifth business day after public announcement of the preliminary determination. Notwithstanding any other provision of this Part, extensions of time for filing comments shall not be granted. Comments shall be submitted in writing to the Secretary and shall be served on all interested parties on the Department's service list.

(3) *Corrections.* Not later than the tenth business day after the public announcement of the Secretary's preliminary determination, the Secretary will analyze any comments received and determine whether a significant ministerial error exists. Where the Secretary determines that a significant ministerial error exists, the Secretary shall publish an amended preliminary determination in the **Federal Register**.

(4) *Definition of "significant ministerial error."* For purposes of this section, "significant ministerial error" means—

(i) An error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Secretary considers ministerial; and

(ii) Correction of the error, either singly or in combination with other errors:

(A) Would result in a change of at least 5 absolute percentage points in, but not less than 25 percent of, the dumping margin calculated in the original (erroneous) preliminary determination; or

(B) Would result in a difference between a dumping margin of zero (or *de minimis*) and a margin of greater than *de minimis*.

## PART 355—[AMENDED]

3. The authority citation for part 355 continues to read as follows:

**Authority:** 5 U.S.C. 301, and subtitle IV, parts II, III, and IV of the Tariff Act of 1930,

as amended by Title I of the Trade Agreements Act of 1979, Pub. L. 96-39, 93 Stat. 150, and section 221 and Title VI of the Trade and Tariff Act of 1984, Pub. L. 98-573, 98 Stat. 294, and Title I, subtitle C, part II of the Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100-418, 102 Stat. 1107 (1988).

4. Section 355.15 is amended by revising paragraph (h) to read as follows:

**§ 355.15 Preliminary determination.**

* * * * *

(h) *Disclosure and correction of significant ministerial errors*—(1) *In general.* No later than two business days after the public announcement of the Secretary's preliminary determination, the Secretary will disclose the calculations performed in connection with a preliminary countervailing duty determination pursuant to paragraph (a) of this section to any party to the proceeding making a request in accordance with this paragraph. A party to the proceeding must file such a request in writing with the Secretary no later than five business days prior to the scheduled date for the Secretary's preliminary determination. A party to whom the Secretary has disclosed preliminary calculations may submit comments alleging that a significant ministerial error has occurred in such calculations.

(2) *Time limits.* Comments must be filed no later than the fifth business day after the public announcement of the preliminary determination. Notwithstanding any other provision of this Part, extensions of time for filing comments shall not be granted. Comments shall be submitted in writing to the Secretary and shall be served on all interested parties on the Department's service list.

(3) *Corrections.* Not later than ten business days after the public announcement of the Secretary's preliminary determination, the Secretary will analyze any comments received and determine whether a significant ministerial error exists. Where the Secretary determines that a significant ministerial error exists, the Secretary shall publish an amended preliminary determination in the **Federal Register.**

(4) *Definition of "significant ministerial error."* For purposes of this section, "significant ministerial error" means—

(i) An error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Secretary considers ministerial; and

(ii) Correction of the error, either singly or in combination with other errors:

(A) Would result in a change of at least 5 absolute percentage points in, but not less than 25 percent of, the net subsidy calculated in the original (erroneous) preliminary determination; or

(B) Would result in a difference between a net subsidy of zero (or *de minimis*) and a net subsidy of greater than *de minimis.*

[FR Doc. 92-685 Filed 1-9-92; 8:45 am]
BILLING CODE 3510-DS-M

## DEPARTMENT OF TRANSPORTATION

## Federal Highway Administration

## 23 CFR Part 655

**[FHWA Docket No. 89-1, Notice No. 5]**

**RIN 2125-AC 83**

## National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices; Work Zone Traffic Control Standards Revision; Revise Format

**AGENCY:** Federal Highway Administration (FHWA), Department of Transportation (DOT).

**ACTION:** Advance notice of proposed amendments to the Manual on Uniform Traffic Control Devices (MUTCD); request for comments.

**SUMMARY:** The MUTCD is incorporated by reference in 23 CFR 655, subpart F, and recognized as the national standard for traffic control devices on all roads open to public travel. The FHWA initiated a review of part VI of the MUTCD to improve the application and uniformity of traffic control devices and the safety of workers, pedestrians, and motorists in work zones. The FHWA enlisted the services of an engineering consultant to gather and organize information for review for review by Federal, State, local, and other highway agencies. The FHWA has also published three notices soliciting public comment on part VI. Based on the consultant's findings, the public comments, and FHWA's knowledge of work zone traffic control devices standards and applications, the FHWA has prepared this advanced notice of proposed amendments. This advance notice of proposed amendments discusses reformatting of the MUTCD including part VI.

A portion of the advance notice of proposed amendments would reformat all parts of the MUTCD. The remainder of the advance notice of proposed amendments would affect various sections of part VI of the MUTCD. The notice is intended to expedite traffic, improve safety, and provide a more uniform application of highway signs, signals, and markings.

**DATES:** Commens must be received on or before July 30, 1992..

**ADDRESSES:** Submit written, signed comments to FHWA Docket No. 89-1, Notice No. 5, Federal Highway Administration, Room 4232, HCC-10, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

**FOR FURTHER INFORMATION CONTACT:** For information regarding this advance notice of proposed amendments or a copy of the proposed test contact Mr. James E. Weaver, Office of Highway Safety, (202) 366-2189, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., room 3419, Washington, DC 20590. For information regarding this advance notice of proposed amendments contact Mr. Wilbert, Baccus, Office of Chief Counsel, (202) 366-0780, Department of Transportation, 400 Seventh Street, SW., room 4223, Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** The MUTCD is approved by the FHWA as the National Standard for all streets and highways open to public travel. The MUTCD is available for inspection and copying as prescribed in 49 CFR part 7, appendix D. It may be purchased for $22.00 from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Stock No. 050-001-00308-2.

The FHWA enlisted the Services of an engineering consultant to solicit comments from Federal, State, local, and other highway agencies regarding the design, administration, and operation of highway work zones in anticipation of rewriting Part VI of the MUTCD. The consultant's initial findings were made available for review and comment on December 23, 1988, at 53 FR 518926, through a Public Information Package followed by revised findings in a second Public Information Package on June 5, 1989, at 54 FR 23990. The comment period for the second Public Information Package was reopened on April 26, 1990, at 55 FR 17634, and again reopened from August 15, 1990, to March 31, 1991, at 55 FR 33325.

The FHWA received 100 comments in response to the public docket 89-1, Notice Nos. 1 through 4. The large majority of comments supported the following conclusions: (1) There is a need to retain most of the traffic control device design and application standards that are presently contained in the current MUTCD, (2) there is a need for few new traffic control devices, and (3) there is a need to provide users with the new guidance information presented in the public information packages.

This notice concerning Part VI "Traffic Controls for Street and Highway Construction, Maintenance, Utility, and Emergency Operations" of the MUTCD sets forth basic principles and prescribes standards for traffic control during work zone operations on streets and highways in the United States. With the current emphasis on repairing the Nation's highways and improving safety in work zone areas, an update of part VI would be better serve the public and the highway community. Coincident with the update of part VI, the FHWA has been considering a recommendation by the National Committee on Uniform Traffic Control Devices (NCUTCD) that the MUTCD be reformatted and structured to achieve a succinct book of Standards. It would be preferable to publish and distribute part VI after a decision on the format for the future MUTCD has been made and the proposed part VI has been appropriately reformated. Because the revised part VI, as currently drafted, is extremely voluminous, this part may contain information which would be more appropriate as guidance rather than standards.

This notice is being issued to: (1) Provide an opportunity for the public to comment on the desirability of the proposed amendments to Part VI of the MUTCD, and (2) address alternative formats for the MUTCD.

**Discussion of Format**

At the January 1989 meeting of the NCUTCD, a Blue Ribbon Committee was appointed the task of looking at ways to rewrite and administer the MUTCD. In July 1990, the NCUTCD submitted to the FHWA a trial application of the reformatting concept that had been agreed upon by each of its Technical Committees and its Executive Board. The trial applied the reformatting concept to MUTCD Part IV, "Signals." The format proposed by the NCUTCD originally contained five categories as follows: (1) Standard, (2) Guidance, (3) Authorized Options, (4) Supporting Information and (5) Indeterminate. The NCUTCD has subsequently grouped the "indeterminate" information into one of the other four categories. Rather than four categories as suggested by the NCUTCD, the FHWA believes the MUTCD should contain only standards and supplemental information that directly guides the application of the standards. All other information should be considered for inclusion in a separate document such as the Traffic Control Device Handbook (TCDH). Comments on the general reformatting concept are requested. Comments on the substance of items to be included under reformatted categories will be requested in a later rulemaking.

Copies of the NCUTCD's proposal and an FHWA draft rewrite of a section of part IV are available from the Office of Highway Safety, Traffic Control Device Applications Branch (HHS-31), 400 7th Street, SW., Washington, DC.

**Discussion of Amendments to Part VI**

The following items are the most important of the many revisions to part VI.

*Utility and Emergency Traffic Control*

The FHWA received many requests to include discussions on the proper application of traffic control devices in utility and emergency situations in the rewrite of part VI. Due to the lack of readily available information on these subjects, only brief sections could be included in the proposed text at this time. The FHWA asked for guidance in this area in the previous Public Information Packages. Very little information was submitted, and there is still a need for more substantive information upon which to develop standards and guides. The FHWA again solicits comments and suggestions in these areas from those who have experience in administration, design, and operation of utility and/or emergency situations.

*Pedestrian and Worker Safety*

To focus attention on pedestrian and worker safety, new Sections 6D-1 and 6D-2 have been developed. These sections would consolidate the standards, guidance, and information that were previously scattered throughout part VI.

*New Symbol Signs*

The study, "Motorists' Comprehension of Regulatory, Warning, and Symbol Signs," [1] raised serious doubts about the continuing process of converting word legend signs to symbol signs. The FHWA has adopted very few new symbols since this report was completed. There are no new symbol designs proposed for inclusion in the rewrite of part VI. There are, however, several new combinations of existing symbols to form new symbol messages. As an example, in Figure VI-8a, Sign W1-4c shows a three-lane shift. This sign uses three lane shift symbols from the current standard W1-4 sign (Figure 6-13a of the 1988 MUTCD).

*New Word Message Signs*

The rewrite of part VI includes some new word message warning signs. These signs, like any word legend warning sign, are currently allowed by section 6C-41. The warning signs that are proposed for inclusion in the rewrite of Part VI are commonly used by many State and local highway agencies.

*Portable Changeable Message Signs*

Standards, guides, and information regarding changeable message signs would be added to section 6F-2, Portable Changeable Message Signs. This change would be made to improve application uniformity and make the standards, guides and information regarding these signs, found elsewhere in the MUTCD (part II), more readily available to those who administer, design, and operate work zones.

*Drums*

The minimum diameter of drums and the materials used to make drums have been somewhat controversial over the past several years. As in the current standards, drums would be required to have a minimum diameter of 18 inches. Other shapes of drums would also be required to have at least 18 inches minimum width regardless of orientation. In addition, the top stripe would be required to be orange.

Research studies have repeatedly shown that a steel drum poses severe hazards to pedestrians, workers, and motorists when the drum is struck. Therefore, the use of steel drum as a channelizing or other traffic control device would be specifically prohibited.

*Short-Term Traffic Control Marking Standards*

The MUTCD short-term pavement marking standards and guides, that are found in section 6F-6, have been somewhat controversial over the past several years. The text that is currently in the 1988 edition of the MUTCD has not been changed in this draft. Under Section 1A-6 of the MUTCD, the FHWA

[1] Motorists' Comprehension of Regulatory, Warning, and Symbol Signs, November 1985, Report Nos. FHWA-RD-86-111, 112, and 113. It is available for inspection and copying as prescribed in 49 CFR part 7, appendix D.

has authorized two States to conduct experimentation with abbreviated no-passing zone markings. The results of the experimentation and recent FHWA research will be incorporated into the decision making process for amendments to short-term no-passing zone pavement markings standards.

A conflict has developed regarding the terminology used to describe the temporary pavement markings that are to be installed in work zones. As discussed under a following heading, the term "Short-Term" would be included in section 6G–2 to describe a distinct period of time. Therefore, in section 6F–6, which discusses temporary pavement markings, the words "short-term" would be replaced with "non-permanent."

*Additional Guidance for the Use of Various Traffic Control Devices*

Additional guidance concerning the use of tubular markers would be added at 6F–5c, drums at 6F–5e, temporary raised islands at 6F–5h, impact attenuators at 6F–8a, rumble strips at 6F–8d, and glare screens at 6F–8e.

*Description of Distinct Work Zone Time Durations*

To assist users of the MUTCD Part VI in the selection of traffic control devices and typical application of these devices, section 6G–2, Selection of Typical Application, would be added to describe five distinct work zone time durations. These time durations are: Long-Term Stationary, Intermediate-Term Stationary, Short-Term Stationary, Short Duration, and Mobile.

*New Typical Application Diagrams*

Many engineering practitioners have requested that the part VI standards and guidelines be supplemented with typical application diagrams. The existing part VI includes a small number of such diagrams. In the rewrite of part VI, it is proposed to incorporate a substantially larger number of new or improved typical application figures.

**Rulemaking Analyses and Notices—Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures**

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the DOT. It is anticipated that the economic impact of this action will be minimal. Therefore, a full regulatory evaluation is not required.

The need to further evaluate economic consequences will be reviewed on the basis of the comments submitted in response to this notice.

**Regulatory Flexibility Act**

In accordance with the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 605(b)), the FHWA has evaluated the effects of this proposed action on small entities. Based upon this evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. The need to further evaluate economic consequences will be reviewed on the basis of the comments submitted in response to this notice.

**Executive Order 12612 (Federalism Assessment)**

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The MUTCD is incorporated by reference in 23 CFR part 655, Subpart F which requires that changes to the National Standards issued by the FHWA shall be adopted by the States or other Federal agencies within 2 years of issuance. The proposed actions are in keeping with the Secretary of Transportation's authority under 23 U.S.C. 109(d) and 315 to promulgate uniform guidelines to promote the safe and efficient utilization of the highways.

**Executive Order 12372 (Intergovernmental Review)**

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

**National Environmental Policy Act**

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

**Regulatory Identification Number**

A regulatory identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. Thr RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

**List of Subjects in 23 CFR Part 655**

Design standards, Grant programs-transportation, Highways and roads, Signs, Traffic regulations, Incorporation by reference.

Issued on: January 3, 1992.

**T.D. Larson,**

*Administrator.*

[FR Doc. 92–502 Filed 1–9–92; 8:45 am]

BILLING CODE 4910–22–M

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 943

## Texas Permanent Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Texas permanent regulatory program (hereinafter, the "Texas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Texas regulations pertaining to revegetation. The amendment is intended to incorporate the additional flexibility afforded by the revised Federal regulations.

This notice sets forth the times and locations that the Texas program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

**DATES:** Written comments must be received by 4 p.m., c.s.t. February 10, 1992. If requested, a public hearing on the proposed amendment will be held on February 4, 1992. Requests to present oral testimony at the hearing must be received by 4 p.m., c.s.t. on January 27, 1992.

**ADDRESSES:** Written comments should be mailed or hand delivered to James H. Moncrief at the address listed below.

Copies of the Texas program, the proposed amendment, and all written comments received in response to this notice will be available for public

review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OMS's Tulsa Field Office.

James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, suite 550, Tulsa, OK 74135, Telephone: (918) 581–6430.

Railroad Commission of Texas, Surface Mining and Reclamation Division, Capitol Station, P.O. Drawer 12967, Austin, TX 78711, Telephone: (512) 463–6900.

**FOR FURTHER INFORMATION CONTACT:** James H. Moncrief, Telephone: (918) 581–6430.

**SUPPLEMENTARY INFORMATION:**

## I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. General background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Texas program can be found in the February 27, 1980, **Federal Register** (45 FR 12998). Subsequent actions concerning Texas's program and program amendments can be found at 30 CFR 943.15 and 943.16.

## II. Proposed Amendment

By letter dated December 23, 1991, (Administrative Record No. TX–513), Texas submitted a proposed amendment to its program pursuant to SMCRA and at its own initiative. Texas proposes to delete from its program Texas Coal Mining Regulation 816.394 which states that:

> When the approved postmining land use is range or pasture land, the reclaimed land shall be used for livestock grazing at a grazing capacity approved by the Commission approximately equal to that for similar non-mined lands, for at least the last two full years of liability required under § .395(b).

## III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Texas program.

*Written Comments*

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

*Public Hearing*

Persons wishing to testify at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4 p.m., c.s.t. on January 27, 1992. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

*Public Meeting*

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "**ADDRESSES.**" A written summary of each meeting will be made a part of the administrative record.

## List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 31, 1991.

**Raymond L. Lowrie,**

*Assistant Director, Western Support Center.*

[FR Doc. 92–695 Filed 1–9–92; 8:45 am]

BILLING CODE 4310–05–M

## 30 CFR Part 950

## Wyoming Permanent Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; reopening and extension of comment period.

**SUMMARY:** OSM is soliciting comments on additional information pertaining to a previously proposed amendment to the Wyoming permanent regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The additional information pertains to Wyoming's 1989 legislative enacted changes to the Environmental Quality Act (EQA). This amendment is intended to revise the State program to be consistent with the corresponding Federal standards, incorporate the additional flexibility afforded by the revised Federal regulations, and improve operational efficiency.

This notice sets forth the times and locations that the Wyoming amendment to that program are available for public inspection and the reopened comment period during which interested persons may submit written comment on the proposed amendment.

**DATES:** Written comments must be received by 4 p.m., m.s.t. January 27, 1992.

**ADDRESSES:** Written comments should be mailed or hand delivered to Guy Padgett at the address listed below. Copies of the Wyoming program, the amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

Guy Padgett. Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, room 2128, Casper, WY 82601–1918, Telephone: (307) 261–5776.

Department of Environmental Quality, Land Quality Division, Herschler Building—Third Floor West, 122 West 25th Street, Cheyenne, WY 82002, Telephone: (307) 777–7756.

**FOR FURTHER INFORMATION CONTACT:** Guy Padgett, Telephone (307) 261–5776.

**SUPPLEMENTARY INFORMATION:**

## I. Background on the Wyoming Program

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Wyoming program can be found in the November 26, 1980 **Federal Register** (45 FR 78637). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.12, 950.15, and 950.16.

## II. Proposed Amendment

By letter dated June 24, 1991 (administrative record No. WY–16–1), Wyoming submitted a proposed amendment to its program pursuant to SMCRA. Wyoming submitted a portion of the proposed amendment at its own initiative and the remainder in response to 30 CFR 732 notifications dated December 23, 1985, June 9, 1987, and November 7, 1988.

OSM published a notice in the July 12, 1991 **Federal Register** (56 FR 31898) announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment. The public comment period ended August 12, 1991. During its review of the amendment, OSM became aware of additional information relating to 1989 enacted changes in the EQA at 35–11–103(d)(ii)(D) concerning Solid Waste Management Program jurisdiction that have a direct relationship to proposed rule changes in this amendment (administrative record No. WY–16–11). As a result, OSM is requiring a program amendment under 30 CFR 732.17(e)(3). In its issue letter of September 13, 1991 (administrative record No. WY–16–7), OSM noted to the State in issue number one that "Wyoming's proposed rule changes are the result of the 1989 legislative changes to the Environmental Quality Act (EQA) at 35–11–103(d)(i)(D) (correction to Wyoming's amendment submission and OSM's issue letter of September 13, 1991 is the cite: (EQA) at 35–11–103(d)(ii)(D)]. The changes to the EQA excluded Solid Waste Management Program jurisdiction for all on-site solid waste management facilities subject to the permitting requirements of Articles 2, 3, or 4 (Air Quality, Water Quality, and Land Quality) of the EQA. This change in authority for on-site waste management facilities is a change in the approved State program." Continued in issue number one "Wyoming's modification of the EQA is a significant change to the approved State program and must be submitted as an amendment by the requirements of Federal regulations at 30 CFR 732.17(b)." Comments on the changes to Wyoming's EQA identified above should be limited only to how they affect Wyoming's approved program under SMCRA.

## III. Public Comment Procedures

OSM is reopening the comment period on the proposed Wyoming program amendment to provide the public an opportunity to reconsider the adequacy of the amendment in light of the additional materials that OSM has become aware of. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Wyoming's program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

## List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 3, 1992.

**Raymond L. Lowrie,**

*Assistant Director, Western Support Center.*

[FR Doc. 92–696 Filed 1–9–92; 8:45 am]

BILLING CODE 4310–05–M

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# DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 117

**[CGD5–91–057]**

## Drawbridge Operation Regulations; Stoney Creek, Riviera Beach, MD

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice proposed rulemaking.

**SUMMARY:** At the request of the Maryland Department of Transportation, State Highway Administration, the Coast Guard is considering changing the regulations that govern the operation of the drawbridge across Stoney Creek, mile 0.9, at Riviera Beach, Maryland, by further restricting bridge openings during weekday evening rush hours and by implementing bridge opening restrictions on weekends. The proposed changes to these regulations are, to the extent practicable and feasible, intended to provide for regularly scheduled drawbridge openings to help reduce motor vehicle traffic delays and congestion on the roads and highways linked by this drawbridge.

**DATES:** Comments must be received on or before February 24, 1992.

**ADDRESSES:** Comments should be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004. The comments received will be available for inspection and copying at room 507 at the above address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at 804–398–6222.

**SUPPLEMENTARY INFORMATION:**

## Drafting Information

The drafters of this notice are Linda L. Gilliam, Project Officer, and LT Monica L. Lombardi, Project Attorney.

## Discussion of Proposed Rule

The Maryland Department of Transportation has requested that openings of the drawbridge across Stoney Creek at mile 0.9 in Riviera Beach, Maryland, be further restricted to help reduce highway traffic congestion. The Coast Guard is proposing to restrict the passage of vessels during evening rush hours by expanding the current restricted hours of 4 p.m. to 6 p.m. (with an optional opening at 5 p.m.) to 3:30 p.m. to 6:30 p.m., with the optional opening remaining at 5 p.m., Monday through Friday, except Federal and State holidays. This proposal also changes the weekend schedule from opening on demand to opening on the hour and half hour from 11 a.m. to 7 p.m. on Saturdays, and from 12 p.m. to 5 p.m. on Sundays, with the bridge opening on demand the remainder of the time. The current weekday morning restrictions are from 6:30 a.m. to 9 a.m. with an optional opening at 7:30 a.m. This will remain the same.

The Maryland Department of Transportation completed a study of traffic volumes at this drawbridge which showed that the weekday evening peak hours are from 3:30 p.m. to 6:30 p.m. Weekend hourly traffic volumes also were collected. The data revealed that the volume of traffic between the hours of 11 a.m. to 7 p.m. on Saturday and 12 p.m. to 5 p.m. on Sunday is at the same level as the weekday evening peak hour

traffic volumes. By extending the evening rush hour restrictions and restricting drawbridge openings on the weekends, vehicular traffic congestion on the S173 highway will be greatly reduced and highway safety will be increased. Recreational and commercial vessels will not be totally restricted during the weekday morning and evening rush hours. One opening will be provided at 7:30 a.m. and again at 5 p.m. during rush hours if any vessels are waiting to pass. The existing provision that the bridge opens on signal for public vessels of the United States and vessels in an emergency involving danger to life or property would remain unchanged. The Coast Guard believes these proposed regulations will not unduly restrict recreational/commercial vessel passage through the bridge since they can plan most of their vessel transits around the restricted hours of operation.

Public comments are requested on the extension of the evening rush hour bridge opening restrictions and the implementation of weekend bridge opening restrictions to ensure that this proposal is reasonable. Persons submitting comments should include their name and address, identify the bridge, and give reasons for any recommended changes to the proposed rule. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope. The Commander, Fifth Coast Guard District, will evaluate all communications received and determine a final course of action on this proposal. This rule may be changed based on comments received.

**Regulatory Evaluation**

This proposed rule is considered to be non major under Executive Order 12291 and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of the proposed regulation on commercial navigation or on any industries that depend on waterborne transportation should be minimal. This conclusion is based on the fact that commercial and recreational vessels will not be totally restricted during the proposed hours of restriction since an opening will be provided once in the morning and once in the evening during weekday rush hours. Because the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the U.S. Coast Guard must consider whether proposed rules will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard will accept comments on the economic impact on small entities, in connection with the proposal for permanent regulations, and consider them at that time.

**Federalism**

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the temporary rule does not raise sufficient federalism implications to warrant preparation of a Federalism Assessment.

**Environment**

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.(5) of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

**List of Subjects in 33 CFR Part 117**

Bridges.

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of Title 33, Code of Federal Regulations as follows:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.573 is revised to read as follows:

**§ 117.573 Stoney Creek.**

The draw of the Stoney Creek (S173) bridge, mile 0.9, in Riveria shall open on signal, except:

(a) From 6:30 a.m. to 9 a.m. and from 3:30 p.m. to 6:30 p.m. Monday through Friday except Federal and State holidays, the draw need be opened only at 7:30 a.m. and 5 p.m. for vessels waiting to pass.

(b) From 11 a.m. to 7 p.m. on Saturday and from 12 p.m. to 5 p.m. on Sunday, the draw need be opened only on the hour and half hour.

(c) Public vessels of the United States and vessels in an emergency involving danger to life or property shall be passed at any time.

Dated: December 27, 1991.

**W.T. Leland,**

*Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 92–658 Filed 1–9–92; 8:45 am]

BILLING CODE 4910–14–M

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**33 CFR Part 155**

**[CGD 91–034/90–068]**

**RIN 2115–AD81 and 66**

## Vessel Response Plans and Carriage and Inspection of Discharge-Removal Equipment

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of establishment of advisory committee for regulatory negotiation and notice of meetings.

**SUMMARY:** The Coast Guard is announcing the establishment of the Oil Spill Response Plan Negotiated Rulemaking Committee (OSRPNRC) to develop a report, including a recommended proposed and final rule, concerning tank vessel oil spill response plans and carriage of removal equipment. The rulemaking will implement certain amendments to the Federal Water Pollution Control Act included in the Oil Pollution Act of 1990. The committee will adopt its recommendation through a negotiation process. The committee is composed of persons who represent the interests substantially affected by the regulations. This notice also provides the times and places of January meetings of the advisory committee, which will be open to the public.

**DATES:** the first meeting of the advisory committee is 9 a.m. on January 8–10, 1992, the second is scheduled for 9 a.m. on January 21–23, 1992.

**ADDRESSES:** The scheduled meetings will be held in room 4234 on January 8–10, 1992 and in room 6200 on January 21–23, 1992 at DOT Headquarters, 400 Seventh Street SW., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** LCDR Glenn Wiltshire, Project Manager, OPA 90 Staff (G–MS–1) at (202) 267–6739 between 7 a.m. and 3:30 p.m. Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Background**

On November 18, 1991, the Coast Guard published a notice of intent regarding the establishment of an advisory committee to assist in developing regulations for tank vessel oil spill response plans and carriage of discharge-removal equipment (56 FR 58202; supplemental information published on November 29, 1991, at 56 FR 60949). These regulations are required by sections 311(j)(5) and (j)(6)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1321 *et seq.*) as amended by section 4202(b)(4) of the Oil Pollution Act of 1990 (Pub. L. 101-380) (OPA 90). The notice of intent requested comments concerning the decision to use the regulatory negotiation process (reg neg), the membership of the advisory committee, the issues it should consider and the interests substantially affected by the rulemaking. A contingent notice, published on December 24, 1991, (56 FR 66611), explained that the Coast Guard anticipated making a decision on whether to proceed with reg neg soon after the close of the comment period and provided appropriate notice of the time and date for the first meeting.

The Coast Guard received over 60 comments on the notice of intent. Many of the comments contained nominations for membership on the committee. The majority of the comments supported and expressed an interest in contributing to the process. Based on this response, and for the reasons stated in the notice of intent, the Coast Guard has determined that establishing an advisory committee and developing the response plan regulations (including carriage of discharge-removal equipment) through reg neg is appropriate and in the public interest. Accordingly, the Coast Guard has established the Oil Spill Response Plan Negotiated Rulemaking Committee pursuant to the Negotiated Rulemaking Act of 1990 (Pub. L. 101-648) and the Federal Advisory Committee Act (5 U.S.C. App.) (FACA).

Several of the comments requested further information on the issues to be addressed by the committee. The Coast Guard intends to present the following issues to the committee for their consideration:

—Application of Response Plan Requirements to Various Tank Vessel Types.
—Definition of Response to "Maximum Extent Practicable".
—Contractor Prequalification and Certification.
—Carriage of Discharge-Removal Equipment Aboard Tank Vessels.

The Coast Guard has selected the following as members of the committee. They are listed according to the interest which the Coast Guard identifies as being significantly affected by this rulemaking, based on the notice of intent and the comments submitted in response.

Environmental/Public Interest Groups

Natural Resources Defense Council
Prince William Sound Regional Citizens' Advisory Committee

Response Contractors

Marine Spill Response Corporation
National Response Corporation
Spill Control Association of America
Remedial Contractors Institute

State Governments

State of California
State of Louisiana
State of Maryland

Tank Vessel Operators/Cargo Interests

American Institute of Merchant Shipping
Transportation Institute
International Association of Independent Tanker Owners
International Tanker Owners Pollution Federation
American Waterways Operators
National Ocean Industries Association
Offshore Marine Service Association
Arco Marine Inc.
Oil Companies International Marine Forum
American Petroleum Institute

Oil Handling Facilities

American Association of Port Authorities
Independent Liquid Terminals Association
Louisiana Offshore Oil Port Inc.

**Shipboard Operating Personnel**

Marine Engineers Beneficial Association/National Maritime Union District One

*Federal Government*

U.S. Coast Guard

Unfortunately, the Coast Guard cannot accommodate all requests for membership on the adivsory committee. In order to keep the committee to a size that can negotiate effectively, it is necessary to limit membership. It is also desirable to have balance among the members of the committee representing different clusters of interests. In addition, it is not essential that every concerned organization be a member of the committee, so long as every significant interest involved is represented by an appropriate organization. The Coast Guard believes that the committee membership identified above provides representation for each significant interest affected by issues to be discussed. There may be additions to the membership of the committee if the Coast Guard determines it is appropriate.

Participation by Non-Members

It is important to keep in mind that participation in the rulemaking process is not limited to members of the advisory committee. Negotiation sessions of the committee are open to the public, and interested persons can observe the negotiations and communicate their views, in an appropriate time and manner, to members of the committee. Organizations that offered to participate in the negotiated rulemaking are encouraged to send representatives to attend the committee meetings. Members of groups or individuals who are not members of the committee itself will have the opportunity to participate with working groups of the committee. The Coast Guard believes that participation of this kind can be very valuable for the rulemaking process. Of course, all interested persons will have the opportunity to comment on the proposed rule resulting from the committee's deliberations.

Meetings of the Committee

The first meeting of the Oil Spill Response Plan Negotiated Rulemaking Committee is being held on January 8, 1992 as indicated above. The agenda for the first meeting includes adopting procedures for the committee to use to consider the issues before it.

All committee meetings will be open to the public, subject to space availability; however, only the listed parties may participate as members. In accordance with the requirements of FACA, the Coast Guard will keep minutes of all committee meetings. These minutes will be placed in the public dockets (CGD 91-034/90-068) for this rulemaking and will be available for public inspection and copying at room 3406, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001

In order to meet the stringent statutory deadlines imposed for the insurance of these regulations by OPA 90, the contingent notice published on December 24, 1991 announced the first meeting of the committee. To maintain this accelerated schedule, notice of the committee meeting on 21-23 January 1992 is published at this time.

Notice of any changes to the meeting schedule, as well as notice of future meetings, will be published as required in the **Federal Register**.

Dated: January 6, 1992.

A. E. Henn,

*Chief, Office of Marine Safety, Security and Environmental Protection.*

[FR Doc. 92-660 Filed 1-9-92; 8:45 am]

BILLING CODE 4910-14-M

## 33 CFR Part 165

[CGD1 91-109]

## Safety Zone; Boston Inner Harbor, Boston, MA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a permanent safety zone around the USS CONSTITUTION, with the size of the zone varying appropriate to prevailing conditions. This zone is needed to safeguard CONSTITUTION as an historic national maritime treasure and to protect other vessels and persons viewing CONSTITUTION waterside from the risk of collision, damage or personal injury due both to its limited maneuverability when underway and to the limited maneuvering room available in the vicinity of its berth. Implementation of this safety zone will enhance safe navigation in Boston Harbor by defining permanent operational parameters for public viewing of CONSTITUTION when it is underway or moored.

**DATES:** Comments must be received on or before February 24, 1992.

**ADDRESSES:** Comments may be mailed to the Commanding Officer, USCG Marine Safety Office, 455 Commercial Street, Boston, MA, 02109-1045, or may be delivered to room 234 at the above address between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-3000. The Marine Safety Office Boston maintains the public docket for this rulemaking.

Comments will become part of this docket and will be available for inspection or copying at room 234, Marine Safety Office Boston.

**FOR FURTHER INFORMATION CONTACT:** LCDR S. Garrity, Marine Safety Office Boston, (617)223-3000.

**SUPPLEMENTARY INFORMATION:**

### Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD1 91-109) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Office Boston at the address under "**ADDRESSES.**" If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

### Drafting Information

The principal persons involved in drafting this document are LCDR S. Garrity, Project Officer, Marine Safety Office Boston, and LCDR J. Astley, Project Counsel, First Coast Guard District Legal Office.

### Background and Purpose

The country's oldest seagoing vessel, the USS CONSTITUTION is a treasured national monument. To protect the vessel, the Captain of the Port (COTP) Boston has routinely established a temporary moving safety zone around CONSTITUTION whenever underway in Boston Harbor.

CONSTITUTION's July Fourth Turnaround Cruise, the focal point of Boston's Harborfest celebration, is an annual event in Boston Harbor. At 10 a.m. on July Fourth, CONSTITUTION departs berth at Pier 1, Charlestown Navy Yard, sometimes joined by other parade vessels, and proceeds outbound in the Boston Main Channel, Boston Inner Harbor. Once beyond Castle Island, CONSTITUTION and accompanying parade vessels turn and proceed inbound. At noon, when abeam Fort Independence, Castle Island, the CONSTITUTION fires a twenty-one gun salute honoring our nation's birthday. Following the salute, the USS CONSTITUTION and accompanying vessels return to their respective berths and moor by 2 p.m.

Experience has demonstrated that this annual event attracts large crowds of spectator vessels and creates significant congestion in Boston Harbor. The limited maneuverability of CONSTITUTION and other participating vessels while underway for this event poses a hazard for spectator vessels in the area, precipitating the need for a safety zone. A moving zone around the USS CONSTITUTION and other associated parade vessels during the event minimizes the chances of collision with other vessels by eliminating crossing or overtaking situations and helps to provide sufficient maneuvering room for participating vessels. It also minimizes disruption to other vessel traffic, as operators can schedule vessel movements before or after CONSTITUTION's transit.

In addition to this annual event, CONSTITUTION occasionally gets underway in Boston Harbor for special events. Like CONSTITUTION's July Fourth Turnaround Cruise, these events are well publicized and attract many spectator vessels, creating the similar need for a safety zone.

Accordingly, the COTP Boston proposes to establish a permanent moving safety zone for three hundred yards in all directions around the USS CONSTITUTION and around each accompanying parade vessel whenever such vessels are underway in Boston Harbor.

Scheduled movements of the USS CONSTITUTION and accompanying parade vessels will be published in the Local Notice to Mariners and in a Safety Marine Information Broadcast. During scheduled events, other marine traffic may not enter the moving safety zone without authorization from the COTP Boston.

While establishment of a moving safety zone around the CONSTITUTION when underway is a familiar practice in Boston Harbor, the COTP Boston, upon request, and after consultation with the Commanding Officer of the CONSTITUTION, agrees that additional action is necessary to protect the USS CONSTITUTION and the viewing public when the ship is moored. Numerous incidents have occurred where small pleasure craft and, on occasion, commercial tour boats have hazarded CONSTITUTION and themselves by almost colliding with the ship or becoming entangled in the rigging. Similarly, incidents involving lobster boats and the deployment of lobster traps have also occurred, threatening the safety of the vessel.

The Navy maintains records of such incidents and has begun recently to report them to the Coast Guard. A rise in the number of these incidents appears to be related to increases in the number of dinner and tour boats, and recreational vessel traffic operating in Boston Harbor. Vessel congestion in the vicinity of the Navy Yard becomes problematic during peak spectator periods. The most illustrative example of such activity occurs when many vessels gather near CONSTITUTION for evening colors. As vessels jockey for

prime viewing locations, sometimes without regard for personal safety, they have closely endangered the USS CONSTITUTION and themselves by becoming fouled in the ship's rigging.

Lobster boats and lobstermen laying traps in the vicinity of CONSTITUTION have also created safety hazards. In November, 1991, an incident involving a lobster boat occurred in the waters near CONSTITUTION. Lobster traps and attending lines fouled the props of the arriving HMS GLOUCESTER as it was maneuvering toward its berth just ahead of CONSTITUTION at Pier 1, Charlestown Navy Yard. The incident resulted in a near collision between CONSTITUTION and GLOUCESTER and demonstrated the vulnerability of CONSTITUTION in its present berthing location.

To address these problems, the COTP Boston seeks to establish a permanent safety zone in the waters between Hoosac Pier and Pier 1, Charlestown Navy Yard. The zone is necessary to ensure the safety of the CONSTITUTION, spectator craft gathering in the vicinity of the Navy Yard, and vessels mooring in proximity to CONSTITUTION. This regulation will help to prevent injury to the many waterside visitors who come to see CONSTITUTION when moored and will help to prevent damage to vessels and land structures in its immediate vicinity.

The provision of a permanent 50 yard safety zone around CONSTITUTION when CONSTITUTION is moored at a location other than Pier 1, Charlestown Navy Yard provides an equivalent level of protection on those rare occasions when the ship is moored at a site other than Pier 1, Charlestown Navy Yard.

### Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary. The rulemaking provides for public access to waterside viewing of CONSTITUTION for recreational and commercial tour vessels. Denying access to fishermen in the small area of water between Hoosac Pier and Pier 1, Charlestown Navy Yard should not adversely affect their operations since the rest of Boston Harbor is available to them for locating an alternate site. The theory and practice of establishing a safety zone to protect CONSTITUTION and accompanying parade vessels underway in Boston Harbor have been in effect for many years. The proposal to establish a safety zone around CONSTITUTION when moored is consistent with the purpose of promoting safety while at the same time allowing reasonable levels of public waterside access to the vessel.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Since this proposal only slightly modifies the procedure for public waterside viewing of CONSTITUTION, small tour boat companies operating in Boston Harbor are provided the same business opportunity as before in conducting sightseeing tours of CONSTITUTION. Similarly, lobstermen are provided limitless suitable alternative sites in Boston Harbor to conduct their operations. Regardless of whether CONSTITUTION is underway or moored, no adverse economic impact will result from this proposed rulemaking. Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

### Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

### Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. In fact, implementation of this rulemaking should help to preserve a national historic landmark and to protect the environment, reducing the risk of collision or other marine accidents. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "ADDRESSES."

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

1. The authority citation for part 165 continues to read:

**Authority:** 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5.

2. A new § 165.111 is added to read as follows:

### § 165.111 Safety Zone: Boston Harbor, Boston, Massachusetts.

(a) The following areas are established as safety zones during the conditions specified:

(1) Around the USS CONSTITUTION or any accompanying parade vessels when CONSTITUTION is underway—300 yards in all directions in the waters around the USS CONSTITUTION and each parade vessel accompanying CONSTITUTION whenever the USS CONSTITUTION is underway in Boston Harbor from the time such vessels depart their respective berths until the time they complete their transit and are safely moored.

(2) Whenever CONSTITUTION is moored at Pier 1, Charlestown Navy Yard—the waters between Hoosac Pier and Pier 1, Charlestown Navy Yard, from the imaginary line connecting the outer easternmost point protruding into Boston Harbor from Hoosac Pier to the outer westernmost point protruding into Boston Harbor from Pier 1, Charlestown Navy Yard, extending inbound along the face of both piers to the landside points where both piers end.

(3) Around the USS CONSTITUTION—fifty yards in all directions in the waters around CONSTITUTION when the vessel is moored at any Boston berthing location other than Pier 1, Charlestown Navy Yard.

(b) The general regulations governing safety zones as contained in 33 CFR 165.23 apply.

Dated: December 20, 1991.

**W.H. Boland, Jr.,**

*Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.*

[FR Doc. 92–661 Filed 1–9–92; 8:45 am]

BILLING CODE 4910–14–M

# Notices

Federal Register
Vol. 57, No. 7
Friday, January 10, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Order No. 554]

### Expansion of Foreign-Trade Zone 43 Battle Creek, Michigan, Area

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

Whereas, the City of Battle Creek, Michigan, Grantee of Foreign-Trade Zone No. 43, has applied to the Board for authority to expand its general-purpose zone to include a site in Texas Township, Kalamazoo County, Michigan, adjacent to the Battle Creek Customs port of entry;

Whereas, the application was accepted for filing on December 3, 1990, and notice inviting public comment was given in the Federal Register on December 13, 1990 (Docket 48–90, 55 FR 51306);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the Battle Creek area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed on December 3, 1990, subject to the Act and the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), including § 400.28.

Signed at Washington, DC, this 3rd day of January, 1992.

Alan M. Dunn,

*Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.*

[FR Doc. 92–682 Filed 1–9–92; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 556]

### Expansion of Foreign-Trade Zone 43, Battle Creek, Michigan, Area

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

Whereas, the City of Battle Creek, Michigan, Grantee of Foreign-Trade Zone No. 43, has applied to the Board for authority to expand its general-purpose zone to include a site in Zeeland Township, Ottawa County, Michigan, adjacent to the Grand Rapids Customs port of entry;

Whereas, the application was accepted for filing on May 21, 1991, and notice inviting public comment was given in the Federal Register on June 5, 1991 (Docket 29–91, 56 FR 25662);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to expand zone services to the Grand Rapids area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed on May 21, 1991, subject to the Act and the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), including § 400.28.

Signed at Washington, DC, this 3rd day of January, 1992.

Alan M. Dunn,

*Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.*

[FR Doc. 92–683 Filed 1–9–92; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 557]

### Resolution and Order Approving With Restriction the Application of the City of Battle Creek, MI, for a Subzone at the Infant Formula/Nutritional Products Manufacturing Facilities of Mead Johnson & Company in Zeeland, MI

Proceedings of the Foreign-Trade Zones Board, Washington, DC

**Resolution and Order**

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of Battle Creek, Michigan, grantee of Foreign-Trade Zone 43, filed with the Foreign-Trade Zones Board (the Board) on September 21, 1991, requesting special-purpose subzone status for the infant formula and nutritional products manufacturing facilities of Mead Johnson & Company, in Zeeland, Michigan, adjacent to the Grand Rapids Customs port of entry, the Board, finds that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations would be satisfied, and that the proposal would be in the public interest, if approval were subject to a restriction requiring all foreign-origin dairy products admitted to the subzone to be reexported (sugar is of domestic origin), approves the application, subject to the foregoing restriction.

The approval is subject to the FTZ Act and the FTZ Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), including § 400.28. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby

authorized to issue a grant of authority and appropriate Board Order.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the City of Battle Creek, Michigan, Grantee of Foreign-Trade Zone No. 43, has made application (filed 9–21–91, FTZ Docket 55–91, 56 FR 50091, 10–03–91) to the Board for authority to establish a subzone at the infant formula and nutritional products manufacturing facilities of Mead Johnson & Company in Zeeland, Michigan;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations would be satisfied and that the proposal would be in the public interest if approval were given subject to the restriction in the resolution accompanying this action;

Now, therefore, in accordance with the application filed September 21, 1991, the Board hereby authorizes the establishment of a subzone at the Mead Johnson & Company facilities in Zeeland, Michigan, designated on the records of the Board as Foreign-Trade Subzone 43B, at the location described in the application, subject to the restriction in the resolution accompanying this action, and to the Act and the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), including Section 400.28.

Signed this 3rd day of January, 1992, pursuant to Order of the Board.

**Alan M. Dunn,**

*Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.*

[FR Doc. 92–684 Filed 1–9–92; 8:45 am]

BILLING CODE 3510–DS–M

## International Trade Administration

**[A-437-001]**

## Truck Trailer Axle and Brake Assemblies From Hungary; Preliminary Results of Antidumping Duty Administrative Review

**AGENCY:** International Trade Administration/Import Administration, Department of Commerce.

**ACTION:** Notice of preliminarily results of antidumping duty administrative review; request for termination of the suspended investigation.

**SUMMARY:** In response to a request by the Hungarian Railway and Carriage and Machine Works (RABA), the Department of Commerce (the Department) has conducted an administrative review of the agreement suspending the antidumping duty investigation of Truck Trailer Axle and Brake Assemblies from Hungary. RABA has also requested that the Department terminate the suspended investigation. The review covers the sole Hungarian exporter of the merchandise, RABA, and the period calendar year 1985. As a result of the review, we determine preliminarily the existence of a *de minimis* margin during the period of review. We invite interested parties to comment on these preliminary results.

**EFFECTIVE DATE:** January 10, 1992.

**FOR FURTHER INFORMATION CONTACT:** Joseph B. Kaesshaefer, Jr. or Robin Gray, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377–3793.

**SUPPLEMENTARY INFORMATION:**

### Background

On January 4, 1982, the Department published in the **Federal Register** a notice of suspension of antidumping investigation on Truck Trailer Axle and Brake Assemblies from Hungary (47 FR 66). The basis for this suspension of investigation was an agreement reached between the Department and RABA in which RABA agreed to revise their prices to eliminate sales of this merchandise to the United States at less than fair value. On January 30, 1986, we received a request from RABA that we conduct an administrative review and terminate the suspended investigation. We published a notice of initiation of review in the **Federal Register** on February 18, 1986 (51 FR 5751). The Department is now conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

### Scope of the Review

Imports covered by this review, as described in the suspension agreement, are truck trailer axle and brake assemblies and parts thereof which were imported in 1985 under item numbers 692.32 and 692.60 of the Tariff Schedules of the United States Annotated (TSUSA). The merchandise is currently classified under item numbers 8708.50.90, 8709.60.90, and 8716.90.50 of the Harmonized Tariff Schedule (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. The agreement also includes any parts which may be imported to be utilized in trailer axles. These parts include, but are not limited to the beam, spindle, brake spider, camshaft, brake shoes, and separate brake assemblies when imported for use on trailer axles. The agreement does not include separate brake assemblies and other parts which are to be utilized solely in truck components other than trailer axles.

The review covers the sole Hungarian exporter of the merchandise to the United States, RABA, and the period calendar year 1985. Verification was conducted at RABA in Gyor, Hungary, on December 12 and 13, 1986.

### Preliminary Results of Review

The suspension agreement on Truck Trailer Axle and Brake Assemblies from Hungary provides that RABA make all necessary price revisions to eliminate completely any amount by which the fair value of the product exceeds the U.S. price. This suspension agreement established a price which "RABA will charge any U.S. importer or customer for sales of the product which are entered into the United States * * *." Further, this agreement provides that RABA make adjustments "as necessary to ensure that future sales of the product will not be made at less than fair value." It also requires that "the Department shall conduct administrative reviews * * * to ensure that there are and will be no sales at less than fair value." (47 FR 68, January 4, 1982). RABA agreed to submit quarterly reports detailing sales of its products to the United States. RABA also agreed to provide any additional information that the Department deems necessary to assure continuation of the agreement and in order for the Department to conduct its administrative reviews under section 751 of the Tariff Act. This additional information includes all data concerning any subsequent price adjustments relative to the subject merchandise

between RABA and its U.S. importer. The purpose of this administrative review is to determine whether RABA is in compliance with the suspension agreement for the review period calendar year 1985.

In the original less than fair value investigation, the Department determined that Hungary is a state-controlled economy within the meaning of § 353.52 of the Department's Regulations, as amended. Italy was selected as the surrogate country for purposes of determining foreign market value (FMV) under section 773(c) of the Tariff Act, as amended (see Preliminary Determination of Sales at Less Than Fair Value, September 17, 1981, 46 FR 46152). FMV was calculated by valuing the Hungarian factors of production using Italian costs. RABA made subsequent price adjustments to this FMV to ensure that future sales of the product would not be made at less than fair value. For purposes of reviewing RABA's compliance with the suspension agreement, we have not departed from this methodology.

In an administrative review of an antidumping duty order, the Department ordinarily reviews and determines the amount of any antidumping duty due on the subject merchandise by calculating the FMV and the U.S. price of each entry of merchandise subject to that order. However, for suspension agreements, the Department reviews whether the signatories are in compliance with the terms of the agreement. No administrative reviews of this suspension agreement have been conducted previously. Therefore, for this review period, the Department adjusted only the original FMV established in the suspension agreement to account for changes in product models and changes in RABA's factors of productions as reported by RABA in accordance with the terms of the suspension agreement. Because the sole purpose of this review is to determine whether RABA is in compliance with the suspension agreement, no further adjustments were made to the original FMV.

As a result of our comparison of the United States price to the FMV, we have preliminarily determined that a *de minimis* dumping margin of 0.37 percent exists for the period calendar year 1985. According to § 353.6 of the Department's Regulations, we will disregard any weighted average dumping margin that is *de minimis* (i.e. less than 0.5 percent *ad valorem*). In addition, we determine that the sale of this merchandise at a *de minimis* margin is an act which is "inconsequential" within the meaning of § 353.19(d) of the Department's Regulations. Therefore, the Department preliminarily determines that RABA is in compliance with the terms of the suspension agreement for the period calendar year 1985.

RABA has filed a request for termination of the suspended investigation. The Department's Regulations specify that the Department may terminate a suspended investigation if the Department concludes that: (1) The producers covered by the agreement have sold the merchandise at not less than FMV for a period of at least three consecutive years; and (2) it is not likely that those persons will in the future sell the merchandise at less than FMV. 19 CFR 353.25(a). Therefore, the Department cannot address RABA's request for termination until it is demonstrated that RABA has complied with the terms of the agreement for three consecutive years. The Department will conduct reviews for the periods 1986 and 1987 in order to determine whether there is a reasonable basis to believe that the requirements for termination are met.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested parties may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this preliminary notice or the first workday thereafter.

Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. The Department will publish final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: December 30, 1991.

**Alan M. Dunn,**

*Assistant Secretary for Import Administration.*

[FR Doc. 92-686 Filed 1-9-92; 8:45 am]

BILLING CODE 3510-DS-M

## Short-Supply Determination: Certain Large Diameter OCTG

**AGENCY:** Import Administration/ International Trade Administration, Commerce.

**ACTION:** Notice of Short-Supply Determination on Certain Oil Country Tubular Goods ("OCTG").

**SHORT-SUPPLY REVIEW NUMBER:** 62.

**SUMMARY:** The Secretary of Commerce ("Secretary") hereby grants a short-supply allowance for 459.787 net tons of certain large diameter OCTG through March 31, 1992 under the U.S.-Japan Steel Arrangement.

**EFFECTIVE DATE:** January 3, 1992.

**FOR FURTHER INFORMATION CONTACT:** Marissa Rauch or Kathy McNamara, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230 (202) 377-1382 or (202) 377-3793.

**SUPPLEMENTARY INFORMATION:** On December 4, 1991, the Secretary received an adequate petition from Red Hill Geothermal, Inc. ("Red Hill"), requesting a short-supply allowance for 459.787 net tons of 18⅝ inch diameter × 87.5 lb. per foot electric-resistance-weld ("ERW") steel casing, grade NT80DE (HRC maximum 26) with a A.P.I. buttress threaded and coupled connection, through March 31, 1992, under Paragraph 8 of the Arrangement Between the Government of Japan and the Government of the United States of America in Certain Steel Products ("the U.S.-Japan Steel Arrangement"). Red Hill requested short supply because it alleged that this material is not produced domestically and regular export licenses are not available for this material.

The Secretary conducted this short-supply review pursuant to section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101-221, 103 Stat. 1886 (1989) ("the Act"), and § 357.102 of the Department of Commerce's Short-Supply Procedures, 19 CFR 357.102 ("Commerce's Short-Supply Procedures").

### Action

On December 4, 1991, the Secretary established an official record of this short-supply request (Case Number 62) in the Central Records Unit, room B-099, Import Administration, U.S. Department of Commerce. On December 16, 1991, the Secretary published a notice in the **Federal Register** announcing a review of this request and soliciting comments from interested parties. Comments were required to be received no later than December 23, 1991, and interested parties were invited to file replies to any comments no later than five days after

that date. In order to determine whether this product, or a viable alternative product, could be supplied in the U.S. market for the period of this review, the Secretary sent questionnaires to: North Star Steel, Texas Inc. ("North Star"), Al Tech Specialty Steel Corporation ("Al Tech"), USX Corporation ("USX"), CF&I Steel Corporation ("CF&I"), Koppel Steel Corporation ("Koppel"), and Lone Star Steel Corporation ("Lone Star"). The Secretary received timely questionnaire responses from four of the six companies.

### Questionnaire Responses

Four questionnaire respondents (Al Tech, North Star, Lone Star and Koppel) indicated that they were unable to supply the requested OCTG.

### Conclusion

Because the domestic industry is unable to supply Red Hill with 459.787 net tons of material meeting its specifications through March 31, 1992, the Secretary determines that short supply does exist with respect to the requested product for this time period. Pursuant to section 4(b)(4)(A) of the Act and § 357.102 of Commerce's Short-Supply Procedures, the Secretary hereby grants a short-supply allowance for 459.787 net tons of the requested large diameter OCTG through March 31, 1992.

Dated: January 3, 1992.

**Alan M. Dunn,**

*Assistant Secretary for Import Administration.*

[FR Doc. 92-687 Filed 1-9-92; 8:45 am]

BILLING CODE 3510-DS-M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Announcement of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of Bangladesh

January 7, 1992.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

**EFFECTIVE DATE:** February 3, 1992.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a Memorandum of Understanding (MOU) dated September 19, 1991, as amended, between the Governments of the United States and the People's Republic of Bangladesh, agreement was reached to extend their current bilateral textile agreement for three consecutive one-year periods, beginning on February 1, 1992 and extending through January 31, 1995.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits for the period February 1, 1992 through January 31, 1993.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

**Auggie D. Tantillo,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

January 7, 1992.

Commissioner of Customs,

*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Memorandum of Understanding dated September 19, 1991, as amended, between the Governments of the United States and the People's Republic of Bangladesh; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on February 3, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Bangladesh and exported during the twelve-month period beginning on February 1, 1992 and extending through January 31, 1993, in excess of the following levels of restraint:

| Category | Twelve-month restraint limit |
|---|---|
| 237 | 304,500 dozen. |
| 331 | 771,438 dozen pairs. |
| 334 | 92,896 dozen. |
| 335 | 166,795 dozen. |
| 336/636 | 284,271 dozen. |
| 338/339 | 864,677 dozen. |
| 340/640 | 1,954,654 dozen. |
| 341 | 1,619,254 dozen. |
| 342/642 | 280,156 dozen. |
| 347/348 | 1,457,327 dozen. |
| 351/651 | 444,946 dozen. |
| 363 | 16,585,000 numbers. |
| 369-S [1] | 1,111,704 kilograms. |
| 634 | 325,000 dozen. |
| 635 | 210,562 dozen. |
| 638/639 | 1,096,568 dozen. |
| 641 | 678,027 dozen. |
| 645/646 | 257,517 dozen. |
| 647/648 | 916,559 dozen. |
| 847 | 463,485 dozen. |

[1] Category 369-S: only HTS number 6307.10.2005.

Imports charged to these category limits, except Categories 237, 363 and 634, for the period February 1, 1991 through January 31, 1992 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and the People's Republic of Bangladesh.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 92-681 Filed 1-9-92; 8:45 am]

BILLING CODE 3510-DR-F

## COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

### Procurement List Additions

**AGENCY:** Committee for Purchase from the Blind and Other Severely Handicapped.

**ACTION:** Additions to procurement list.

**SUMMARY:** This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**EFFECTIVE DATE:** February 10, 1992.

**ADDRESSES:** Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (703) 557-1145.

**SUPPLEMENTARY INFORMATION:** On August 16, October 8, November 1, 8, 15, 22, 1991, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (56 FR 40872, 52256, 56199, 57323, 58051 and 58882) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodities and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping on other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

Accordingly, the following commodities and services are hereby added to the Procurement List:

*Commodities*

Line, Multi-Loop, 1670-01-107-7651.
Envelope Case, Map and Photograph, 8460-01-113-7575.

*Services*

Grounds Maintenance, North and South Duplexes, Naval Weapons Center, China Lake, California.
Janitorial/Custodial, 934th Tactical Airlift Group, Minneapolis-St. Paul International Airport, Minneapolis, Minnesota.
Janitorial/Custodial, Air Traffic Control Tower and Flight, Service Station, Youngstown Municipal Airport, Youngstown, Ohio.
Janitorial/Custodial, General J. Sumner Jones USARC, Wheeling, West Virginia.
Janitorial/Grounds Maintenance, U.S. Department of Agriculture, Coshocton, Ohio.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E.R. Alley, Jr.,
*Deputy Executive Director.*

[FR Doc. 92-676 Filed 1-9-92; 8:45 am]

BILLING CODE 6820-33-M

## Procurement List Proposed Additions

**AGENCY:** Committee for Purchase from the Blind and Other Severely Handicapped.

**ACTION:** Proposed additions procurement list.

**SUMMARY:** The Committee has received proposals to add to the Procurement List a commodity and a service to be furnished by nonprofit agencies employing persons who are blind or have severe disabilities.

**COMMENTS MUST BE RECEIVED ON OR BEFORE:** February 10, 1992.

**ADDRESSES:** Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman, (703) 557-1145.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and service listed below from nonprofit agencies employing persons who are blind or have severe disabilities.

It is proposed to add the following commodity and service to the Procurement List:

*Commodity*

Tool Box, Portable, 5140-00-226-9019.

*Service*

Janitorial/Custodial, Fort Shafter and Tripler Army, Medial Center, Oahu, Hawaii.

E.R. Alley, Jr.,
*Deputy Executive Director.*

[FR Doc. 92-677 Filed 1-9-92; 8:45 am]

BILLING CODE 6820-33-M

## COMMODITY FUTURES TRADING COMMISSION

### New York Mercantile Exchange Proposed Option Contract

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of availability of the terms and conditions of proposed commodity futures option contract.

**SUMMARY:** The New York Mercantile Exchange (NYMEX or Exchange) has applied for designation as a contract market in options on natural gas futures. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

**DATES:** Comments must be received on or before February 10, 1992.

**ADDRESSES:** Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the natural gas option contract.

**FOR FURTHER INFORMATION CONTACT:** Please contact Richard Shilts of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone 202-254-7303.

**SUPPLEMENTARY INFORMATION:** Copies of the terms and conditions of the proposed contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 245-6314.

Other materials submitted by the NYMEX in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's

headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the terms and conditions of the proposed contract, or with respect to other materials submitted by the NYMEX in support of the application, should send comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 6, 1992.

Gerald Gay,

*Director.*

[FR Doc. 92-615 Filed 1-9-92; 8:45 am]

BILLING CODE 6351-01-M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Notice of delayed implementation of professional services payment reforms; notice of CHAMPUS acceptance of evaluation and management codes.

**SUMMARY:** This notice announces a delay in the implementation of certain changes to CHAMPUS payment mechanisms for professional providers. Instead of being implemented on January 1, 1992, as anticipated, the changes are planned for May 1, 1992. An amendment to 32 CFR part 199 to change the effective date from January 1, 1992 to May 1, 1992 is in preparation. Additionally, the notice describes how CHAMPUS will determine allowable amounts for the new CPT-4 series 99000 "Evaluation and Management" codes being introduced January 1, 1992 by the American Medical Association.

**EFFECTIVE DATE:** The procedure described for evaluation and management codes is effective for all CHAMPUS claims received on or after January 1, 1992 and before implementation of the new payment approach, planned for May 1, 1992.

**ADDRESSES:** Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045-6900.

For copies of the **Federal Register** containing this notice, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (202) 783-3238.

The charge for the **Federal Register** is $1.50 for each issue payable by check or money order to the Superintendent of Documents.

For further information contact: Steve Lillie, Office of the Assistant Secretary of Defense (Health Affairs), (703) 695-3350.

To obtain copies of this document, see the **ADDRESSES** section above. Questions related to specific CHAMPUS claims should be addressed to the appropriate CHAMPUS contractor.

**SUPPLEMENTARY INFORMATION:** The final rule published on September 6, 1991 (56 FR 44001) set forth a revised approach to reimbursement of individual professional providers under CHAMPUS. The rule implemented provisions of the Defense Appropriations Act for Fiscal Year 1991, which limited increases in maximum allowable payments to physicians and other individual professional providers and authorized reductions in such amounts for overpriced procedures. On October 7, 1991, an initial set of revisions to maximum allowable amounts was implemented; we planned to implement on January 1, 1992 additional revisions to allowable amounts, along with a shift to national determination of maximum allowable amounts and adjustments to reflect local economic conditions.

The revisions to maximum allowable amounts and the shift to nationally-determined, locally-adjusted maximum allowable amounts will not take place on January 1, 1992. The planned effective date of these changes is May 1, 1992. The reasons for this delay are (1) the delay in the publication of the Medicare Fee Schedule, which provides certain information necessary for the calculation of CHAMPUS maximum allowable amounts, and (2) the administrative complexity of the changes being implemented. Until the changes are implemented, the present system of statewide prevailing charges will remain in place, and current maximum allowable amounts will remain in effect.

The American Medical Association is implementing, effective January 1, 1992, a new set of codes for evaluation and management services as part of its Physicians' Current Procedural Terminology (CPT-4). The CPT-4 is available from the American Medical Association, P.O. Box 10946, Chicago, IL 60610. CHAMPUS fiscal intermediaries will accept claims using these codes beginning on January 1, 1992, and will determine maximum payment amounts by using the Medicare "crosswalk" from the old 90000 series codes for similar services. The Medicare crosswalk has published in the **Federal Register** on November 25, 1991 (56 FR 59580).To avoid penalizing providers and for administrative simplicity, maximum allowable payment amounts will be determined new codes which are a "blend" of several old codes by applying the highest maximum allowable amount from the old codes used to create the new code, rather than use the blending process adopted by Medicare. In the case of a new series 99000 code which is crosswalked one-to-one from an old series 90000 code, the maximum allowable amount for the old code will be used for the new code.

CHAMPUS fiscal intermediaries will continue to accept claims using the "old" codes after January 1, 1992, until the changes now planned for May 1, 1992 are implemented. At that time, only claims employing the new codes will be accepted; the maximum allowable amounts for the new codes will be determined on a national basis, with adjustments to reflect local economic conditions.

Dated: January 7, 1992.

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 92-606 Filed 1-9-92; 8:45 am]

BILLING CODE 3810-01-M

### Defense Science Board Task Force on Space Exploration Initiative Support

**ACTION:** Notice of advisory committee meetings.

**SUMMARY:** The Defense Science Board Task Force on Space Exploration Initiative Support will meet in closed session on January 20-21, 1992 at Science Applications International Corporation, Falls Church, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review the status of DoD activities, consider cooperative areas for DoD involvement, particularly those areas where there may be dual use—civil and military.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. app. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that

accordingly this meeting will be closed to the public.

Dated: January 7, 1992.

**Linda M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 92-607 Filed 1-9-92; 8:45 am]

BILLING CODE 3810-01-M

## Per Diem, Travel and Transportation Allowance Committee

**AGENCY:** Per Diem, Travel and Transportation Allowance Committee.

**ACTION:** Publication of changes in per diem rates.

**SUMMARY:** The Per Diem, Travel and Transportation Allowance Committee is pubishing Civilian Personnel Per Diem Bulletin Number 159. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and possessions of the United States. Bulletin Number 159 is being published in the Federal Register to assure that travelers are paid per diem at the most current rates.

**EFFECTIVE DATE:** January 1, 1992.

**SUPPLEMENTARY INFORMATION:** This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowances Committee for non-foreign areas outside the continental United States. Distribution of Civilian Personnel Per Diem Bulletins by mail was discountinued effective June 1, 1979. Per Diem Bulletins published periodically in the Federal Register now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

BILLING CODE 3810-01-M

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

| LOCALITY | MAXIMUM LODGING AMOUNT (A) + | M&IE RATE (B) | MAXIMUM PER DIEM RATE = (C) | EFFECTIVE DATE |
|---|---|---|---|---|
| ALASKA: | | | | |
| ADAK 5/ | $ 10 | $ 34 | $ 44 | 10-01-91 |
| ANAKTUVUK PASS | 83 | 57 | 140 | 12-01-90 |
| ANCHORAGE | | | | |
| 05-15--09-15 | 129 | 67 | 196 | 05-15-92 |
| 09-16--05-14 | 83 | 62 | 145 | 01-01-92 |
| ANIAK | 73 | 36 | 109 | 07-01-91 |
| ATQASUK | 129 | 86 | 215 | 12-01-90 |
| BARROW | 86 | 73 | 159 | 06-01-91 |
| BETHEL | 70 | 73 | 143 | 12-01-90 |
| BETTLES | 65 | 45 | 110 | 12-01-90 |
| CANTWELL | 62 | 46 | 108 | 06-01-91 |
| COLD BAY | 71 | 54 | 125 | 12-01-90 |
| COLDFOOT | 75 | 47 | 122 | 12-01-90 |
| CORDOVA | 74 | 89 | 163 | 01-01-91 |
| CRAIG | 67 | 35 | 102 | 07-01-91 |
| DILLINGHAM | 76 | 38 | 114 | 12-01-90 |
| DUTCH HARBOR-UNALASKA | 91 | 54 | 145 | 12-01-90 |
| EIELSON AFB | | | | |
| 05-15--09-15 | 91 | 65 | 156 | 05-15-92 |
| 09-16--05-14 | 63 | 63 | 126 | 01-01-92 |
| ELMENDORF AFB | | | | |
| 05-15--09-15 | 129 | 67 | 196 | 05-15-92 |
| 09-16--05-14 | 83 | 62 | 145 | 01-01-92 |
| EMMONAK | 60 | 40 | 100 | 06-01-91 |
| FAIRBANKS | | | | |
| 05-15--09-15 | 91 | 65 | 156 | 05-15-92 |
| 09-16--05-14 | 63 | 63 | 126 | 01-01-92 |
| FALSE PASS | 80 | 37 | 117 | 06-01-91 |
| FT. RICHARDSON | | | | |
| 05-15--09-15 | 129 | 67 | 196 | 05-15-92 |
| 09-16--05-14 | 83 | 62 | 145 | 01-01-92 |
| FT. WAINWRIGHT | | | | |
| 05-15--09-15 | 91 | 65 | 156 | 05-15-92 |
| 09-16--05-14 | 63 | 63 | 126 | 01-01-92 |
| HOMER | | | | |
| 05-01--09-30 | 71 | 60 | 131 | 05-01-92 |
| 10-01--04-30 | 57 | 58 | 115 | 01-01-92 |
| JUNEAU | | | | |
| 05-01--10-01 | 88 | 74 | 162 | 05-01-92 |
| 10-02--04-30 | 75 | 73 | 148 | 01-01-92 |

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

| LOCALITY | MAXIMUM LODGING AMOUNT (A) + | M&IE RATE (B) = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|
| ALASKA: (CONT'D) | | | | |
| KATMAI NATIONAL PARK | $ 89 | $ 59 | $148 | 12-01-90 |
| KENAI-SOLDOTNA | | | | |
| 04-02--09-30 | 94 | 68 | 162 | 04-02-92 |
| 10-01--04-01 | 69 | 66 | 135 | 01-01-92 |
| KETCHIKAN | | | | |
| 05-14--10-14 | 77 | 61 | 138 | 05-14-92 |
| 10-15--05-13 | 62 | 59 | 121 | 01-01-92 |
| KING SALMON 3/ | 75 | 59 | 134 | 12-01-90 |
| KLAWOCK | 75 | 36 | 111 | 07-01-91 |
| KODIAK | 71 | 61 | 132 | 01-01-92 |
| KOTZEBUE | 125 | 72 | 197 | 01-01-92 |
| KUPARUK OILFIELD | 75 | 52 | 127 | 12-01-90 |
| METLAKATLA | 79 | 44 | 123 | 07-01-91 |
| MURPHY DOME | | | | |
| 05-15--09-15 | 91 | 65 | 156 | 05-15-92 |
| 09-16--05-14 | 63 | 63 | 126 | 01-01-92 |
| NELSON LAGOON | 102 | 39 | 141 | 06-01-91 |
| NOATAK | 125 | 72 | 197 | 01-01-92 |
| NOME | 68 | 70 | 138 | 01-01-92 |
| NOORVIK | 125 | 72 | 197 | 01-01-92 |
| PETERSBURG | 62 | 59 | 121 | 01-01-92 |
| POINT HOPE | 99 | 61 | 160 | 12-01-90 |
| POINT LAY | 106 | 73 | 179 | 12-01-90 |
| PRUDHOE BAY-DEADHORSE | 64 | 57 | 121 | 12-01-90 |
| SAND POINT | 75 | 36 | 111 | 07-01-91 |
| SEWARD | | | | |
| 05-01--09-30 | 107 | 53 | 160 | 05-01-92 |
| 10-01--04-30 | 61 | 48 | 109 | 01-01-92 |
| SHUNGNAK | 125 | 72 | 197 | 01-01-92 |
| SITKA-MT. EDGECOMBE | 72 | 69 | 141 | 01-01-92 |
| SKAGWAY | | | | |
| 05-14--10-14 | 77 | 61 | 138 | 05-14-92 |
| 10-15--05-13 | 62 | 59 | 121 | 01-01-92 |
| SPRUCE CAPE | 71 | 61 | 132 | 01-01-92 |
| ST. GEORGE | 100 | 39 | 139 | 06-01-91 |
| ST. MARY'S | 60 | 40 | 100 | 12-01-90 |
| ST. PAUL ISLAND | 81 | 34 | 115 | 12-01-90 |
| TANANA | 68 | 70 | 138 | 01-01-92 |
| TOK | 66 | 55 | 121 | 01-01-92 |
| UMIAT | 97 | 63 | 160 | 12-01-90 |

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

| LOCALITY | MAXIMUM LODGING AMOUNT (A) + | M&IE RATE (B) = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|
| ALASKA: (CONT'D) | | | | |
| UNALAKLEET | $ 58 | $ 47 | $105 | 12-01-90 |
| VALDEZ | | | | |
| 05-01--09-01 | 98 | 53 | 151 | 05-01-92 |
| 09-02--04-30 | 84 | 51 | 135 | 01-01-92 |
| WAINWRIGHT | 90 | 75 | 165 | 12-01-90 |
| WALKER LAKE | 82 | 54 | 136 | 12-01-90 |
| WRANGELL | | | | |
| 05-14--10-14 | 77 | 61 | 138 | 05-14-92 |
| 10-15--05-13 | 62 | 59 | 121 | 01-01-92 |
| YAKUTAT | 70 | 40 | 110 | 12-01-90 |
| OTHER 3, 4/ | 63 | 47 | 110 | 07-01-91 |
| AMERICAN SAMOA | 132 | 47 | 179 | 12-01-91 |
| GUAM | 99 | 59 | 158 | 12-01-90 |
| HAWAII: | | | | |
| ISLAND OF HAWAII: HILO | 60 | 38 | 98 | 06-01-91 |
| ISLAND OF HAWAII: OTHER | 106 | 43 | 149 | 06-01-91 |
| ISLAND OF KAUAI | 112 | 48 | 160 | 06-01-91 |
| ISLAND OF KURE 1/ | | 13 | 13 | 12-01-90 |
| ISLAND OF MAUI: KIHEI | | | | |
| 04-01--12-19 | 85 | 50 | 135 | 12-01-90 |
| 12-20--03-31 | 97 | 50 | 147 | 12-20-90 |
| ISLAND OF MAUI: OTHER | 62 | 50 | 112 | 06-01-91 |
| ISLAND OF OAHU | 95 | 42 | 137 | 06-01-91 |
| OTHER | 59 | 47 | 106 | 12-01-90 |
| JOHNSTON ATOLL 2/ | 18 | 18 | 36 | 10-01-91 |
| MIDWAY ISLANDS 1/ | | 13 | 13 | 12-01-90 |
| NORTHERN MARIANA ISLANDS: | | | | |
| ROTA | 45 | 31 | 76 | 12-01-90 |
| SAIPAN | 68 | 47 | 115 | 12-01-90 |
| TINIAN | 44 | 24 | 68 | 12-01-90 |
| OTHER | 20 | 13 | 33 | 12-01-90 |
| PUERTO RICO: | | | | |
| BAYAMON | | | | |
| 04-16--12-14 | 93 | 90 | 183 | 07-01-91 |
| 12-15--04-15 | 116 | 92 | 208 | 12-15-91 |
| CAROLINA | | | | |
| 04-16--12-14 | 93 | 90 | 183 | 07-01-91 |
| 12-15--04-15 | 116 | 92 | 208 | 12-15-91 |
| FAJARDO (INCLUDING LUQUILLO) | | | | |
| 04-16--12-14 | 93 | 90 | 183 | 07-01-91 |
| 12-15--04-15 | 116 | 92 | 208 | 12-15-91 |

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

| LOCALITY | MAXIMUM LODGING AMOUNT (A) + | M&IE RATE (B) = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|
| PUERTO RICO: (CONT'D) | | | | |
| FT. BUCHANAN (INCL GSA SERV CTR, GUAYNABO) | | | | |
| 04-16--12-14 | $ 93 | $ 90 | $183 | 07-01-91 |
| 12-15--04-15 | 116 | 92 | 208 | 12-15-91 |
| MAYAGUEZ | 84 | 58 | 142 | 07-01-91 |
| PONCE | 113 | 90 | 203 | 07-01-91 |
| ROOSEVELT ROADS | | | | |
| 04-16--12-14 | 66 | 61 | 127 | 07-01-91 |
| 12-15--04-15 | 102 | 64 | 166 | 12-15-91 |
| SABANA SECA | | | | |
| 04-16--12-14 | 93 | 90 | 183 | 07-01-91 |
| 12-15--04-15 | 116 | 92 | 208 | 12-15-91 |
| SAN JUAN (INCL SAN JUAN COAST GUARD UNITS) | | | | |
| 04-16--12-14 | 93 | 90 | 183 | 07-01-91 |
| 12-15--04-15 | 116 | 92 | 208 | 12-15-91 |
| OTHER | 63 | 63 | 126 | 07-01-91 |
| VIRGIN ISLANDS OF THE U.S. | | | | |
| 05-01--11-30 | 95 | 63 | 158 | 05-01-91 |
| 12-01--04-30 | 128 | 66 | 194 | 12-01-90 |
| WAKE ISLAND 2/ | 4 | 17 | 21 | 12-01-90 |
| ALL OTHER LOCALITIES | 20 | 13 | 33 | 12-01-90 |

FOOTNOTES

1/ Commercial facilities are nct available. The meal and incidental expense rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

2/ Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

3/ On any day when US Government or contractor quarters are available and US Government or contractor messing facilities are used, a meal and incidental expense rate of $16.25 is prescribed to cover meals and incidental expenses at Shemya AFB and the following Air Force Stations: Cape Lisburne, Cape Newenham, Cape Romanzof, Clear, Fort Yukon, Galena, Indian Mountain, King Salmon, Sparrevohn, Tatalina and Tin City. This rate

will be increased by the amount paid for US Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

4/ On any day when US Government or contractor quarters are available and US Government or contractor messing facilities are used, a meal and incidental expense rate of $34 is prescribed to cover meals and incidental expenses at Amchitka Island, Alaska. This rate will be increased by the amount paid for US Government or contractor quarters and by $10 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

5/ On any day when US Government or contractor quarters are available and US Government or contractor messing facilities are used, a meal and incidental expense rate of $25 is prescribed instead of the rate prescribed in the table. This rate will be increased by the amount paid for U.S. government or contractor quarters.

BILLING CODE 3810-01-C

Dated: January 7, 1992.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 92-605 Filed 1-9-92; 8:45 am]

BILLING CODE 3810-01-M

## Department of the Air Force

### To Prepare an Unclassified Environmental Impact Statement for the B-2 Basing at Whiteman AFB, MO

The United States Air Force is issuing this notice to advise the public that an unclassified Environmental Impact Statement (EIS) will be prepared for basing the first wing of B-2 bombers, 24 OA-10 and 18 T-38 aircraft at Whiteman AFB, Missouri.

The National Environmental Policy Act encourages agencies to conduct public scoping meetings to obtain input to assist in determining the nature, extent and scope of the issues and concerns to be addressed in the EIS. The Air Force has tentatively scheduled a public scoping meeting for January 27, 1992. Notice of the exact time and place of the meeting will be published in the news media.

The United States Air Force invites comments and suggestions from all interested parties on the scope of the EIS. If concerned persons are not able to attend this scoping meeting, written suggestions and comments will be accepted. To assure the Air Force will have sufficient time to fully consider public inputs on issues, written comments should be mailed to ensure receipt no later than March 8, 1992. However, the Air Force will accept comments at any time during the environmental impact analysis process. Comments or requests for further information concerning this EIS should be addressed to: Captain Eric Wilbur, Environmental Planning, 351 SPTG/DEV, Whiteman AFB, MO 65305-5000, Phone: 816-687-6347.

**Patsy J. Conner,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 92-561 Filed 1-9-92; 8:45 am]

BILLING CODE 3910-01-M

## Defense Contract Audit Agency

### Delivery of Personal Mail at Defense Contract Audit Agency Installations

**AGENCY:** Defense Contract Audit Agency (DCAA), Department of Defense (DOD).

**ACTION:** Notice of DCAA policy for delivering mail from private sources to individual members or employees of the Defense Contract Audit Agency.

**SUMMARY:** This notice serves to advise the private sector of the Defense Contract Audit Agency policy for delivering mail from private sources to individual members or employees of the Defense Contract Audit Agency. It applies to unsolicited mass mailings, received in quantities of five or more on the same day or on consecutive days from the same mailer addressed from private organizations to Agency employees at their place of employment.

**DATES:** The proposed action will be effective without further notice on February 10, 1992 unless comments are received which would result in a contrary determination.

**ADDRESSES:** Send any comments to Mrs. Kathy Windsor, ATTN: CMR, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304-6178, Telephone: (703) 274-4400.

**SUPPLEMENTARY INFORMATION:** The Defense Contract Audit Agency has a general policy that individual members and employees are not to use their office address for the receipt of personal mail. This policy has been difficult to enforce as it is often subjective if mail from private sources is intended for people as individuals or as officials of the Defense Contract Audit Agency. At times however, it is obvious, due to the nature of the mail piece and the quantities received, that the mailing can reasonably be considered to be personal. Regardless, the Defense Contract Audit Agency has attempted to deliver such mail containing a correct name and office address. Since the Defense Contract Audit Agency and not the Postal Service sorts and delivers mail internally at all Defense Contract Audit Agency locations, the receipt of large volumes of personal mail places a burden on Agency available equipment and limited staffing resources. Several Defense Contract Audit Agency locations have recently requested permission to refuse to deliver large volumes of personal mail addressed to individuals at their office. In accordance with Department of Defense policy regarding installation management, the Defense Contract Audit Agency has approved these requests on an individual basis. Unofficial mail (from private sources) addressed to Defense Contract Audit Agency employees by name, received in quantities of five or more on the same day or on consecutive days from the same mailer, may be refused by DCAA mailroom personnel and returned to the Postal Service.

Dated: January 6, 1992.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 92-564 Filed 1-9-92; 8:45 am]

BILLING CODE 3810-01-M

## Defense Investigative Service

### Privacy Act of 1974; Amend System of Record Notices

**AGENCY:** Defense Investigative Service, DOD.

**ACTION:** Amend system of record notices.

**SUMMARY:** The Defense Investigative Service proposes to amend three record system notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The specific changes to the notices being amended are set forth below followed by the system notices, as amended, published in their entirety.

**DATES:** The proposed actions will be effective February 10, 1992, unless comments are received that would result in a contrary determination.

**ADDRESSES:** Send comments to Mr. Dale Hartig, Chief Office of Information and Public Affairs, Defense Investigative Service, 1900 Half Street, SW, Room 6115, Washington, DC 20324-1700. Telephone (202) 475-1062.

**SUPPLEMENTARY INFORMATION:** The complete Defense Investigative Service systems of records notices inventory subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, has been published in the **Federal Register** at

50 FR 22943, May 29, 1985 (DoD Compilation, changes follow)
55 FR 22390, Jun. 1, 1990
56 FR 12716, Mar. 27, 1991
56 FR 46163, Sep. 10, 1991

The amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), which requires the submission of altered systems reports.

Dated: January 6, 1992.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**V7-01**

*System name:*

Enrollment, Registration and Course Completion Record, (50 FR 22958, May 29, 1985).

*Changes:*

* * * * *

*System location:*

Delete entry and replace with "Department of Defense Security Institute, Defense General Supply Center, Building 33, Bay E, Richmond, VA 23297-5091."

* * * * *

*Authority for maintenance of the system:*

Delete entry and replace with "5 U.S.C. 301; Executive Order 9397; Executive Order 10865; Executive Order 10909; DoD Directive 5105.42, Defense Investigative Service; DoD Directive 5200.32, Department of Defense Security Institute; and DIS Regulation 28-1, DIS Records Management Program."

* * * * *

*Storage:*

And "machine-printed" after "on" in line 1.

* * * * *

*Safeguards:*

Add period (.) at the end of line 3 and delete line 4.

*Retention and disposal:*

Delete entry and replace with "Diskettes are erased or overwritten and reused every two years, or when full, whichever comes first. Machine printed index cards are destroyed by burning or shredding 10 years from the date of the last transaction."

*System manager(s) and address(es):*

Delete entry and replace with "Director, Department of Defense Security Institute, Defense General Supply Center, Building 33, Bay E, Richmond, VA 23297-5091."

*Notification procedure:*

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW, Washington, DC 20324-1700."

*Record access procedures:*

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Investigative Service, Privacy Act Office, P.O. Box 1211, Baltimore, MD 21203-1211.

A request for information must contain the full name and Social Security Number of the subject individual. Personal visits will require a valid driver's license or other picture identification and are limited to the Privacy Act Office."

*Contesting record procedures:*

Delete entry and replace with "The agency's rules for accessing records, contesting contents, and appealing initial determinations by the individual concerned are contained in DIS Regulation 28-4, Access to and Maintenance of DIS Personal Records; 32 CFR part 321; or may be obtained from the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW, Washington, DC 20324-1700."

* * * * *

**V7-01**

**SYSTEM NAME:**

Enrollment, Registration and Course Completion Record.

**SYSTEM LOCATION:**

Department of Defense Security Institute, Defense General Supply Center, Building 33, Bay E, Richmond, VA 23297-5091.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who are scheduled for or who have attended courses of instruction offered by the Institute.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information may include individual's name and other personal identifying and administrative data pertaining to attendance at the Institute to include employer, course completion, and other similar data.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301; Executive Order 9397; Executive Order 10865; Executive Order 10909; DoD Directive 5105.42, Defense Investigative Service; DoD Directive 5200.32, Department of Defense Security Institute; and DIS Regulation 28-1, DIS Records Management Program.

**PURPOSE(S):**

Used by Institute personnel to prepare class rosters and provide basic administrative information on attendees.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The "Blanket Routine Uses" published at the beginning of DIS' compilation of record system notices apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are maintained on machine-printed index cards and computer diskettes.

**RETRIEVABILITY:**

Records are filed alphabetically by last name.

**SAFEGUARDS:**

Records are maintained in file cabinets in a locked room in areas accessible only to authorized personnel.

**RETENTION AND DISPOSAL:**

Diskettes are erased or overwritten and reused every two years, or when full, whichever comes first. Machine printed index cards are destroyed by burning or shredding 10 years from the date of the last transaction.

**SYSTEM MANAGER(S) AND ADDRESS(ES):**

Director, Department of Defense Security Institute, Defense General Supply Center, Building 33, Bay E, Richmond, VA 23297-5091.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW, Washington, DC 20324-1700.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Investigative Service, Privacy Act Office, P.O. Box 1211, Baltimore, MD 21203-1211.

A request for information must contain the full name and Social Security Number of the subject individual. Personal visits will require a valid driver's license or other picture identification and are limited to the Privacy Act Office.

**CONTESTING RECORD PROCEDURES:**

The agency's rules for accessing records, contesting contents, and appealing initial determinations by the individual concerned are contained in DIS Regulation 28-4, Access to and Maintenance of DIS Personal Records; 32 CFR part 321; or may be obtained from the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324-1700.

**RECORD SOURCE CATEGORIES:**

The student, his/her employer, and the Department of Defense Security Institute.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**V7–02**

*System name:*

Guest/Instructor Identification Records, (50 FR 22958, May 29, 1985).

*Changes:*

* * * * *

*System location:*

Delete entry and replace with "Director, Department of Defense Security Institute, Defense General Supply Center, Building 33, Bay E, Richmond, VA 23297–5091."

* * * * *

*Authority for maintenance of the system:*

Delete "20 February 1960" in line 3. Delete "January 17 1961" in line 5. Add "DoD Directive 5200.32, Department of Defense Security Institute (DoDSI)" at the end of the entry.

* * * * *

*Storage:*

Delete entry and replace with "Index cards and computer diskettes."

*Safeguards:*

Add a period (.) at the end of line 3 and delete line 4.

*Retention and disposal:*

Delete entry and replace with "Records are reviewed annually and obsolete data are destroyed. Paper records are shredded or burned, electronic records are erased or overwritten."

*System manager(s) and address(es):*

Delete entry and replace with "Director, Department of Defense Security Institute, Defense General Supply Center, Building 33, Bay E, Richmond, VA 23297–5091."

*Notification procedure:*

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW, Washington, DC 20324–1700."

*Record access procedures:*

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Investigative Service, Privacy Act Office, PO Box 1211, Baltimore, MD 21203–1211.

A request for information must contain the full name and Social Security number of the subject individual. Personal visits will require a valid driver's license or other picture identification and are limited to the Privacy Act Office."

*Contesting record procedures:*

Delete entry and replace with "The agency's rules for accessing records, contesting contents, and appealing initial determination by the individual concerned are contained in DIS Regulation 28–4, Access to and Maintenance of DIS Personal Records: 32 CFR part 321; or may be obtained from the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW, Washington, DC 20324–1700."

* * * * *

**V7–02**

**SYSTEM NAME:**

Guest/Instructor Identification Records.

**SYSTEM LOCATION:**

Dirctor, Department of Defense Security Institute, Defense General Supply Center, Building 33, Bay E, Richmond, VA 23297–5091.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Guest speakers and regularly assigned instructors.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Individual's name, position, biographical data, and other background information.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Executive Order 10865; Executive Order 10909; DoD Directive 5105.42, Defense Investigative Service (DIS); and DoD Directive 5200.32, Department of Defense Security Institute (DoDSI).

**PURPOSE(S):**

Used by Institute personnel for the introduction of speakers and instructors.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The "Blanket Routine Uses" published at the beginning of DIS' compilation of record system notices apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Index cards and computer diskettes.

**RETRIEVABILITY:**

Records are filed alphabetically by last name.

**SAFEGUARDS:**

Records are maintained in file cabinets in a locked room in areas accessible only to authorized personnel.

**RETENTION AND DISPOSAL:**

Records are reviewed annually and obsolete data are destroyed. Paper records are shredded or burned, electronic records are erased or overwritten.

**SYSTEM MANAGER(S) AND ADDRESS(ES):**

Director, Department of Defense Security Institute, Defense General Supply Center, Building 33, Bay E, Richmond VA 23297–5091.

**NOTIFICATION PROCEDURE;**

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquires to the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324-1700.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information about themselves contained in this system of records should address written inquires to the Defense Investigative Service, Privacy Act Office, P.O. Box 1211, Baltimore, MD 21203–1211.

A request for information must contain the full name and Social Security Number of the subject individual. Personal visits will require a valid driver's license or other picture identification and are limited to the Privacy Act Office.

**CONTESTING RECORD PROCEDURES:**

The agency's rules for accessing records, contesting contents, and appealing initial determinations by the individual concerned are contained in DIS Regulation 28–4, Access to and Maintenance of DIS Personal Records;

32 CFR part 321, or may be obtained from the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW, Washington, DC 20324–1700.

**RECORD SOURCE CATEGORIES:**

The information is provided by the individual.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**V8–01**

*System name:*

Industrial Personnel Security Clearance Files (50 FR 22959, May 29, 1985).

*Changes:*

* * * * *

*System location:*

Add these addresses to the end of the entry "Defense Investigative Service, Deputy Director (Industrial Security), 1900 Half Street, SW, Washington, DC 20324–1700.

Defense Investigative Service, New England Region, Director of Industrial Security, 495 Summer Street, Boston, MA 02210–2192.

Defense Investigative Service, Mid–Atlantic Region, Director of Industrial Security, 1040 Kings Highway North, Cherry Hill, NJ 08034–1906.

Defense Investigative Service, Capital Region, Director of Industrial Security, 2461 Eisenhower Avenue, Room 752, Alexandria, VA 22331–1000.

Defense Investigative Service, Mid–Western Region, Director of Industrial Security, 610 South Canal Street, Room 908, Chicago, IL 60607–4577.

Defense Investigative Service, Southeastern Region, Director of Industrial Security, 2300 Lake Park Drive, Suite 250, Smyrna, GA 30080–7606.

Defense Investigative Service, Southwestern Region, Director of Industrial Security, 106 Decker Court, Suite 200, Irving, TX 75062–2795.

Defense Investigative Service, Northwestern Region, Director of Industrial Security, Building 35, Room 114, The Presidio, San Francisco, CA 94129–7700.

Defense Investigative Service, Pacific Region, Director of Industrial Security, 3605 Long Beach Boulevard, Suite 405, Long Beach, CA 90807–4013."

* * * * *

*Categories of records in the system:*

Change "investigor" in line 5 to "investigating".

*Authority for maintenance of the system:*

Delete the entry and replace with "Executive Order 9397; Executive Order 10865; Executive Order 10909; DoD Directive 5105.42, Defense Investigative Service; and DoD 5200.2, DoD Personnel Security Programs."

* * * * *

*Retrievability:*

Delete entry and replace with "Records are accessed by Social Security number or name or both."

*Safeguards:*

Delete everything beginning with "properly" in line four and replace with "authorized personnel."

*Retention and disposal:*

Delete the entry and replace with "Manual records of favorable results are destroyed upon issuance of the clearance. Automated records are retained for 62 months following the termination of employment.

**Exceptions:** Records of cases directed by the Defense Industrial Security Clearance Review (DISCR), or cases involving the death of an individual holding a clearance, are retained until the subject attains, or would have attained, the age of 80 years.

Records released in accordance with the Privacy Act or Freedom of Information Act (FOIA) are retained for two years from date of release.

All cases requiring adjudication are retained for five years from the date of the last clearance action.

Paper records are destroyed by burning or shredding; electronic records are erased or overwritten."

*Notification procedure:*

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW, Washington, DC 20324–1700."

*Record access procedures:*

Delete entry and replace with "PRIVACY ACT REQUESTS: Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Investigative Service, Privacy Act Office, P.O. Box 1211, Baltimore, MD 21203–1211. Personal visits are limited to the Privacy Act Office.

A request for information must contain the full name and Social Security number of the subject individual. Personal visits will require a valid driver's license or other picture identification.

**FOIA Requests:** Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW, Washington, DC 20324–1700. Personal visits are limited to the Office of Information and Public Affairs."

*Contesting record procedures:*

Delete entry and replace with "The agency's rules for accessing records, contesting contents, and appealing initial determinations by the individual concerned are contained in DIS Regulation 28–4, Access to and Maintenance of DIS Personal Records; 32 CFR part 321; or may be obtained from the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW, Washington, DC 20324–1700."

*Record source categories:*

Delete entry and replace with "Subjects of investigations; records of other DoD activities and components, federal, state, county and municipal records; employment records of private business and industrial firms; educational and disciplinary records of schools, colleges, universities, technical and trade schools; hospital, clinic and other medical records; records of commercial enterprises such as real estate agencies, credit bureaus, loan companies, credit unions, banks and other financial institutions which maintain credit information on individuals; transportation companies (air lines, railroads, etc.). Interviews of individuals who are believed to have knowledge of the subject's background and activities; witnesses, victims and confidential sources; any individuals who may have information deemed necessary to complete the investigation. Miscellaneous directories, rosters and correspondence; any other type of record considered necessary to complete the investigation."

* * * * *

**V8–01**

**SYSTEM NAME:**

Industrial Personnel Security Clearance Files.

**SYSTEM LOCATION:**

Central facility is located at the Defense Investigative Service, Defense Industrial Security Clearance Office, P.O. Box 2499, Columbus, OH 43216–2499.

Remote terminals are located at the NSA DIRNSA OPS, Building 3, Room CIB 51, Fort Meade, MD 20755.

Defense Investigative Service, Deputy Director (Industrial Security), 1900 Half Street, SW, Washington, DC 20324–1700.

Defense Investigative Service, New England Region, Director of Industrial Security, 495 Summer Street, Boston, MA 02210–2192.

Defense Investigative Service, Mid-Atlantic Region, Director of Industrial Security, 1040 Kings Highway North, Cherry Hill, NJ 08034–1906.

Defense Investigative Service, Capital Region, Director of Industrial Security, 2461 Eisenhower Avenue, Room 752, Alexandria, VA 22331–1000.

Defense Investigative Service, Mid-Western Region, Director of Industrial Security, 610 South Canal Street, Room 908, Chicago, IL 60607–4577.

Defense Investigative Service, Southeastern Region, Director of Industrial Security, 2300 Lake Park Drive, Suite 250, Smyrna, GA 30080–7606.

Defense Investigative Service, Southwestern Region, Director of Industrial Security, 106 Decker Court, Suite 200, Irving, TX 75062–2795.

Defense Investigative Service, Northwestern Region, Director of Industrial Security, Building 35, Room 114, The Presidio, San Francisco, CA 94129–7700.

Defense Investigative Service, Pacific Region, Director of Industrial Security, 3605 Long Beach Boulevard, Suite 405, Long Beach, CA 90807–4013.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees and major stockholders of government contractors and other DoD affiliated personnel who have been issued, now possess, are, or have been in process for personnel security clearance eligibility determinations, security assurances or NATO clearance documents.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The automated portion may include individual's name, Social Security Number and other personal identifying information; date and level of security clearance granted; date and type of investigation and investigating agency or case number and location; sequential record of action; and information necessary to facilitate the security clearance process.

The manual portion may include the clearance application, copy of the investigation, record of clearance, foreign clearance and travel information; clearance processing information, adverse information and other internal and external correspondence and administrative memoranda relative to the clearance.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Executive Order 9397; Executive Order 10865; Executive Order 10909; DoD Directive 5105.42, Defense Investigative Service (DIS); and DoD Directive 5200.2, DoD Personnel Security Program.

**PURPOSE(S):**

Records serve as a central repository on the eligibility determination of industrial personnel for access to classified information. The file serves as an administrative record, current record and repository for clearance related reports and information.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The "Blanket Routine Uses" published at the beginning of DIS' compilation of record system notices apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Automated records are maintained in computer disk packs, magnetic tapes and associated data processing files. Manual records are on microfiche, index cards and hard copy paper records maintained in file folders.

**RETRIEVABILITY:**

Records are accessed by Social Security Number or name or both.

**SAFEGUARDS:**

Specific codes are required to access the automated records. Manual records are housed in a secured area accessible only to authorized personnel.

**RETENTION AND DISPOSAL:**

Manual records of favorable results are destroyed upon issuance of the clearance. Automated records are retained for 62 months following the termination of employment.

**Exceptions:** Records of cases directed by the Defense Industrial Security Clearance Review (DISCR), or cases involving the death of an individual holding a clearance, are retained until the subject attains, or would have attained, the age of 80 years.

Records released in accordance with the Privacy Act or Freedom of Information Act (FOIA) are retained for two years from date of release.

All cases requiring adjudication are retained for five years from the date of the last clearance action.

Paper records are destroyed by burning or shredding; electronic records are erased or overwritten.

**SYSTEM MANAGER(S) AND ADDRESS:**

Defense Investigative Service, Chief, Office of Security, 1900 Half Street, SW., Washington, DC 20324–1700.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324–1700.

**RECORD ACCESS PROCEDURE:**

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Investigative Service, Privacy Act Office, P.O. Box 1211, Baltimore, MD 21203–1211

A request for information must contain the full name and Social Security Number of the subject individual. Personal visits will require a valid driver's license or other picture identification and are limited to the Privacy Act Office.

**CONTESTING RECORD PROCEDURES:**

The agency's rules for accessing records, contesting contents, and appealing initial determinations by the individual concerned are contained in DIS Regulation 28–4, Access to and Maintenance of DIS Personal Records; 32 CFR part 321; or may be obtained from the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324–1700.

**RECORD SOURCE CATEGORIES:**

Subjects of investigations; records of other DoD activities and components, federal, state, county and municipal records; employment records of private business and industrial firms; educational and disciplinary records of schools, colleges, universities, technical and trade schools; hospital, clinic and other medical records; records of commercial enterprises such as real estate agencies, credit bureaus, loan companies, credit unions, banks and other financial institutions which maintain credit information on individuals; transportation companies (air lines, railroads, etc.). Interviews of individuals who are believed to have

knowledge of the subject's background and activities; witnesses, victims and confidential sources; any individuals who may have information deemed necessary to complete the investigation. Miscellaneous directories, rosters and correspondence; any other type of record considered necessary to complete the investigation.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Portions of this system of records may be exempt under the provisions of 5 U.S.C 552a(k)(5), as applicable, but only if the information would reveal the identity of the source who furnished information to the government under an implied or expressed promise of confidentiality.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 321. For additional information contact the system manager.

[FR Doc. 92-565 Filed 1-9-92; 8:45 am]

BILLING CODE 3810-01-M

## DEPARTMENT OF EDUCATION

### Proposed Information Collection Requests

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed information collection requests.

**SUMMARY:** The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

**DATES:** Interested persons are invited to submit comments on or before February 10, 1992.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** Mary P. Liggett (202) 708-5174.

**SUPPLEMENTARY INFORMATION:** Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Mary P. Liggett at the address specified above.

Dated: January 3, 1992.

**Mary P. Liggett,**

*Acting Director, Office of Information Resources Management.*

*Office of Educational Research and Improvement*

*Type of Review:* Reinstatement.
*Title:* 1993 National Postsecondary Student Aid Study.
*Frequency:* Triennial.
*Affected Public:* Individuals or households; non-profit institutions; small businesses or organizations.
*Reporting Burden*
*Responses:* 8,843.
*Burden Hours:* 12,271.
*Recordkeeping Burden*
*Recordkeepers:* 0.
*Burden Hours:* 0.
*Abstract:* This study will collect data from a sample of students in postsecondary institutions, their parents and their school financial aid records. It will provide a student-based information system for student financial aid. It will assess the distributions and use of financial aid and address important issues in this area.

*Office of Postsecondary Education*

*Type of Review:* New.
*Title:* Application for Grants under the Construction, Reconstruction and Renovation of Academic Facilities Program.
*Frequency:* One time.
*Affected Public:* Non-profit institutions.
*Reporting Burden*
*Responses:* 500.
*Burden Hours:* 4,000.
*Recordkeeping Burden*
*Recordkeepers:* 0.
*Burden Hours:* 0.
*Abstract:* This form will be used by State Educational Agencies to apply for funding under the Construction, Reconstruction and Renovation of Academic Facilities Program. The Department will use the information to make grant awards.

*Office of Elementary and Secondary Education*

*Type of Review:* Revision.
*Title:* Application and Continuation Application for Grants under the Indian Education Act.
*Frequency:* Annually.
*Affected Public:* State or local governments.
*Reporting Burden*
*Responses:* 1,500.
*Burden Hours:* 45,015.
*Recordkeeping Burden*
*Recordkeepers:* 7.
*Burden Hours:* 70.
*Abstract:* This form is used for State Educational Agencies to apply for funding under the Indian Education Act. The Department will use the information to make grant awards.

[FR Doc. 92-563 Filed 1-9-92; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Determination to Establish Environmental Restoration and Waste Management Advisory Committee

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), I hereby certify the Environmental Restoration and Waste Management Advisory Committee (EMAC) is necessary and in the public interest in connection with the performance of duties imposed on the Department of Energy by law. This determination follows consultation with the Committee Management Secretariat of the General Services Administration, pursuant to 41 CFR subpart 101-6.10.

The purpose of the Committee is to provide the Director of Environmental Restoration and Waste Management (EM) with advice and recommendations on both the substance and the process of the Programmatic Environmental Impact Statement (PEIS) and other EM projects from the perspectives of affected groups and State and local

Governments. Consensus recommendations to the Department of Energy (DOE) from the Committee on pragmatic nationwide resolution of numerous difficult issues will help achieve the DOE objective of an integrated environmental restoration program.

Committee members will be chosen to ensure an appropriately balanced membership to bring into account, a diversity of viewpoints, including representatives from citizen groups, non-Federal Government agencies, the private and academic community, and others who may significantly contribute to the deliberations of the committee.

Further information regarding this Advisory Committee may be obtained from Glen Sjoblom, Special Assistant to the Director of Environmental Restoration and Waste Management, EM-1, 1000 Independence Avenue, SW., Washington, DC 20585 (telephone: 202-586-7710).

Issued in Washington, DC on January 7, 1992.

**Howard H. Raiken,**

*Advisory Committee Management Officer.*

[FR Doc. 92-674 Filed 1-9-92; 8:45 am]

BILLING CODE 6450-01-M

## Conduct of Employees; Waiver Pursuant to Section 602(c) of the Department of Energy Organization Act (Pub. L. No. 95-91)

Section 602(a) of the Department of Energy ("DOE") Organization Act (Pub. L. No. 95-91, hereinafter referred to as the "Act") prohibits a "supervisory employee" (defined in section 601(a) of the Act) of the Department from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any "energy concern" (defined in section 601(b) of the Act).

Section 602(c) of the Act authorizes the Secretary of Energy to waive the requirements of section 602(a) in cases of exceptional hardship or where the interest is a pension, insurance, or other similarly vested interest.

Mr. James G. Randolph has been appointed to the position of Consultant to the Secretary of Energy, and has recently been nominated to the position of Assistant Secretary for Fossil Energy. As a result of his past employment with Kerr McGee Corporation, Mr. Randolph has vested interests in the Kerr McGee Retirement Trust for Employees of Kerr McGee Corporation and in the Kerr McGee Corporation Retirement Benefit Supplement.

It has been established to my satisfaction that requiring Mr Randolph to divest of his interests in the above Kerr McGee pension plans would pose an exceptional hardship on him, that his interest in the Kerr Retirement Trust for Employees of Kerr McGee Corporation is a vested pension interest, and that his interest in the Kerr McGee Corporation Retirement Benefit Supplement is a similarly vested interest, within the meaning of section 602(c) of the Act. Accordingly, I have granted Mr. Randolph a waiver of the divestiture requirement of section 602(a) of the Act for the duration of his employment with the Department with respect to his pension interests in Kerr McGee Corporation.

In accordance with section 208, title 18, United States Code, Mr. Randolph has been directed not to participate personally and substantially, as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect upon Kerr McGee Corporation.

Pursuant to section 606(b) of the DOE Organization Act, Mr. Randolph has also been advised that, for a period of one year after commencing service in the Department, he is prohibited from knowingly participating in any Department proceeding for which, within the previous five years, he had direct responsibility, or in which he participated personally and substantially, while in the employment of Kerr McGee Corporation.

Dated: November 22, 1991.

**James D. Watkins,**

*Admiral, U.S. Navy (Retired), Secretary of Energy.*

[FR Doc. 92-672 1-9-92; 8:45 am]

BILLING CODE 6450-01-M

## Bonneville Power Administration

## Proposed Billing Credits Contracts and Availability of Draft Administrative Record

**AGENCY:** Bonneville Power Administration (BPA), DOE.

**ACTION:** Notice of Intent to sign Billing Credit Contracts for Customer System Efficiency Improvements (CSEI). Notice of availability of the Draft Administrative Record for the CSEI Billing Credits Policy Test Program. BPA File No: BCR-4.

**SUMMARY:** BPA, pursuant to its Billing Credits Policy, as amended August 30, 1984 (48 FR 20275), and its Billing Credit Solicitation July 1990, has negotiated contracts with 12 public bodies or cooperative utilities for proposed CSEI projects. CSEI projects include voltage modifications, reconductoring, transformer replacements, and other system improvements that reduce electric power consumption or losses by increasing efficiency of electric use, production, transmission or distribution. BPA intends to sign 12 CSEI contracts.

The Draft Administrative Record contains background on BPA's Billing Credits Policy, the need for billing credit resources, a summary of the Billing Credit Solicitation, a summary of the evaluation process for proposals, and environmental considerations. The Draft Administrative Record includes two Appendices: Appendix A—Billing Credit Solicitation, and Appendix B—Issue Resolution Log. Addendum One of the Draft Administrative Record—Customer System Efficiency Improvements Contract Development, provides specific information about the CSEI projects and how billing credits are determined.

*Responsible Official:* Paul Norman, Billing Credits Project Manager, is the official responsible for BPA's CSEI Billing Credits contracts and the Draft Administrative Record.

**DATES:** BPA will receive comments on the Billing Credit CSEI Contracts for 30 days. Payment or credits will not be made or granted until 90 days after the date of a **Federal Register** notice announcing that a contract has been signed.

**FOR FURTHER INFORMATION CONTACT:** For a copy of a specific CSEI Billing Credits Contract(s) and the Draft Administrative Record, Appendix A—Billing Credit Solicitation, and Appendix B—Issue Resolution Log, and Addendum One—Customer System Efficiency Improvements Contract Development, please contact the Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212. If a particular contract is not specified, a sample contract will be sent.

Telephone numbers, voice/TTY, for the Public Involvement Office are 503-230-3478 in Portland, or toll-free 800-622-4519.

Information may also be obtained from:

Mr. George E. Bell, Lower Columbia Area Manager, 1500 NE. Irving Street, room 243, Portland, Oregon 97208, 503-230-4551

Mr. Robert Laffel, Eugene District Manager, Federal Building, room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503-465-6952

Mr. Wayne R. Lee, Upper Columbia Area Manager, room 561 U.S. Court House, 920 W. Riverside Avenue, Spokane, Washington 99201, 509-353-2518

Ms. Carol S. Fleishman, Spokane District Manager, room 561 U.S. Court House, 920 W. Riverside Avenue, Spokane, Washington 99201, 509–353–2518

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3060

Mr. Ronald K. Rodewald, Wenatchee District Manager, 301 Yakima Street, room 307, Wenatchee, Washington 98807, 509–662–4377

Mr. Terence G. Esvelt, Puget Sound Area Manager, 201 Queen Avenue North, suite 2400 Seattle, Washington 98109, 206–553–4130

Mr. Thomas Wagenhoffer, Snake River Area, West 101 Poplar, Walla Walla, Washington, 99362, 508–522–6226

Mr. Thomas Blankenship, Boise District Manager, Federal Building, 304 North Eighth Street, room 450, Boise, Idaho 83702, 208–334–9137

Mr. Richard J. Itami, Idaho Falls District Manager, 1527 Hollipark Drive, Idaho Falls, Idaho 83401, 208–523–2706

**SUPPLEMENTARY INFORMATION:**

## I. Relevant Statutory Provisions

BPA is a self-financing power marketing agency within the United States Department of Energy. BPA was established by the Bonneville Project Act of 1937, 16 U.S.C. 832 *et seq.*, to market wholesale power from Bonneville Dam and to construct power lines for the transmission of this power to load centers in the Northwest. BPA sells wholesale electric power and energy to 126 utilities, 13 direct service industrial customers (DSIs) and several government agencies.

The Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) directs BPA to serve the net power requirements of any regional electric utility requesting service, and to serve existing DSIs in the Pacific Northwest. 16 U.S.C. 839 c and d. Although BPA cannot own or construct electric generating facilities, the Northwest Power Act directs BPA to acquire rights to the output or capability of electric power resources to serve increased customer requirements. See 16 U.S.C. 839b(1). The Northwest Power Act requires BPA to grant credits to BPA's customers on their power bills for electric power resources that reduce the Administrator's obligation to acquire resources to meet BPA's electric power requirements. 16 U.S.C. 839d(h). Billing credits may be adjustments to customers' power bills or equivalent cash payments. Resources eligible for billing credits include conservation and generation.

## II. Background

BPA's Billing Credits Policy interprets the billing credits provisions in the Northwest Power Act, prescribes criteria for customer and resource eligibility, and establishes procedures for granting billing credits.

BPA's 1990 Resource Program focused on choosing near-term resource actions for Fiscal Years 1992 and 1993. After receiving comments from customers on the draft 1990 Resource Program that suggested BPA use billing credits, BPA chose a resource strategy that included billing credits. BPA then developed a Solicitation requesting proposals for billing credits resources. Billing credits provide a way to shift some of the risk for resource development to utilities and others, which was an objective of the chosen strategy in the 1990 Resource Program. In July 1990, BPA released the Solicitation. It proposed to test the billing credit approach for acquiring energy resources by granting 50 average megawatts of billing credits to eligible resources. BPA's objective in the test was to ensure that the billing credit mechanism is workable for BPA customers.

## III. Customer System Efficiency Improvements (CSEI)

The proposals submitted in response to the Billing Credit Solicitation were divided into two groups, conservation and generation resources. Because CSEI projects reduce electric power consumption or losses by increasing efficiency of electric use, production, transmission or distribution, they were considered a subset of conservation measures, but covered in separate contracts.

## IV. Description of the Proposals

Twenty-four CSEI proposals representing thirty public bodies or cooperative utilities were submitted pursuant to the July 1990 Billing Credit Solicitation. CSEI projects include voltage modifications, reconductoring, transformer replacements, and other system improvements undertaken to reduce electric power consumption or losses as a result of an increase in the efficiency of electric use, production, transmission or distribution. Of these seventeen utilities have proposed installing amorphous core transformers, state-of-the-art low loss transformers. Six utilities have proposed installing low loss silicon transformers.

The proposed projects as a group call for the installation of 33,000 transformers over a four-year period. These involve future installations of 18,000 transformers and replacing 15,000 inefficient transformers. Of these proposed installations, 1,600 would be low loss silicon transformers and the remaining amorphous core transformers. Instead of rejecting the low loss silicon transformers based on no savings, BPA proposed changing their projects to amorphous core transformers to meet the standard under Question 19(c) of Appendix B.

Three utilities proposed voltage upgrades and reconductoring projects. These projects would reduce energy losses on the utility's distribution circuits by replacing the existing conductor with a larger conductor. Three utilities proposed voltage upgrade and replacement transformer projects to reduce energy losses by increasing the operating voltage of feeders, and replacing existing standard distribution transformers with amorphous core distribution transformers. BPA proposes to sign contracts with the following utilities for amorphous core transformer upgrade projects:

1. Coos-Curry Electric Cooperative, Inc.
2. Elmhurst Mutual Power and Light Company
3. Kootenai Electric Cooperative, Inc.
4. Lower Valley Power and Light, Inc.
5. Public Utility District No. 1 of Clallam County, Washington
6. Public Utility District No. 1 of Grays Harbor County, Washington
7. Public Utility District No. 3 of Mason County, Washington
8. Public Utility District No. 2 of Pacific County, Washington
9. Public Utility District No. 1 of Snohomish County, Washington
10. The City of Richland, Washington
11. Umatilla Electric Cooperative Association

BPA proposes to sign contracts with the following utility for voltage upgrades and reconductoring and voltage upgrade replacement transformer projects:

The City of Springfield

The projects listed above meet the qualifications for billing credits. These actions are categorically excluded from the procedural requirements of the National Environmental Policy Act (52 FR 47669) under categorical exclusion determinations dated April 18, 1991, and July 3, 1991. BPA therefore granted conditional approval to the above-listed proposals and proposes to enter into contracts with those same customers.

## V. Methodology for Determining Billing Credits

The payment or billing credit (BC) will be calculated by using the following formula. $BC = (AC–PF) \times Savings \times C_s$. As shown in Exhibit F of the proposed contracts, alternative cost

(AC), minus the Priority Firm (PF) rate, times the savings from the measures, times the cost share percentage ($C_s$), equals the billing credit (BC).

Issued in Portland, Oregon, on December 31, 1991.

Randall W. Hardy,

*Administrator.*

[FR Doc. 92-673 Filed 1-9-92; 8:45 am]

BILLING CODE 6450-01-M

## Office of Conservation and Renewable Energy

### Financial Assistance Award; Intent to Award Grant to the Commonwealth of Massachusetts for an Alternative Fuels Demonstration

**AGENCY:** Department of Energy Office of Conservation and Renewable Energy (CE).

**ACTION:** Notice of intent to award noncompetitive financial assistance.

**SUMMARY:** Based upon a determination pursuant to 10 CFR 600.6(a)(5), the DOE CE-Support Office, Boston, intends to make a noncompetitive financial assistance award to the Massachusetts Division of Energy Resources, which will expand its Alternative Fuels Demonstration Program to include a demonstration of school buses designed for use with compressed natural gas (CNG).

The planned grant amendment will provide $50,607 additional funding for an existing State Energy Conservation Plan (SECP) grant (DE-FG41-88R130311). The DOE funds will be used to pay the incremental cost, that is, the difference between the purchase cost of traditional diesel-fueled school buses and the cost of dedicated original equipment manufacturer (OEM) compressed natural gas (CNG) school buses, for three new school buses at the Town of Weston, MA.

**DATES:** The term of this grant shall be one (1) year from the effective date of award.

**FOR FURTHER INFORMATION CONTACT:** Hugh Saussy, Jr., CE-Support Office, Boston, U.S. Department of Energy, One Congress Street, Boston, MA 02114-2021, (617) 565-9700.

Issued in Chicago, Illinois on December 24, 1991.

Timothy S. Crawford,

*Assistant Manager for Administration.*

[FR Doc. 92-670 Filed 1-9-92; 8:45 am]

BILLING CODE 6450-01-M

## Federal Energy Regulatory Commission

**[Docket Nos. CP91-780-000 and -002 and CP91-2322-000 and -002]**

### Northwest Pipeline Corp., Paiute Pipeline Co.; Intent To Conduct Informal Public Meetings Inviting Comments on the Northwest Pipeline Expansion Project Draft Environmental Impact Statement

January 6, 1992.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) intends to conduct informal public meetings the week of January 20, 1992 for the purpose of soliciting comments on the draft environmental impact statement (EIS) which was circulated to the public and noticed in the **Federal Register** on January 3, 1992. The attachment lists the locations, dates, and times of the meetings.

The purpose of these meetings is to allow state and local government agencies and interested individuals in the general public the opportunity to provide oral comments on the draft EIS. Written comments may also be submitted in lieu of oral comments at these meetings. The offer of comments at the meetings in no way precludes submittal of further written comments before the close of the comment period on February 18, 1992.

Following brief opening remarks and introductions, preregistered speakers will be allowed to present their comments. Following the preregistered speakers, those who have not preregistered will present their comments. All commenters will be requested to limit their presentations to 5 minutes in length. This will afford time for others to participate. Additional time may be granted to anyone making comments as time permits.

Because these are informal meetings and not formal administrative hearings, commenters will not be cross-examined, but their remarks will be stenographically recorded to assist in the preparation of responses. Responses to comments will appear in the final EIS after due consideration. Copies of the written transcript of each public meeting may be purchased by arrangement with the official reporter at each meeting.

As previously stated, informal public meetings are intended as an opportunity for state and local governments and the general public to provide comments directly to the FERC staff. Cooperating agencies have formal channels for input into the EIS and are expected to coordinate their comments through the lead Federal agency outside the public meeting mechanism.

To obtain further information concerning the public comment meetings or to preregister to present comments, please contact Lauren O'Donnell, FERC environmental project manager, at (202) 208-0874 prior to January 16, 1992.

Lois D. Cashell,

*Secretary*

**Schedule for Public Meetings on the Northwest Pipeline Expansion Project Draft EIS**

*All Meetings Will Begin Promptly at 7 p.m.*

Monday, January 20, 1992—Linn-Benton Community College, 6500 SW. Pacific, Albany, Oregon 97321, telephone (503) 967-6552

Tuesday, January 21, 1992—Red Lion at the Key, 100 Columbia Avenue, Vancouver, Washington 98660, telephone (206) 694-8341

Wednesday, January 22, 1992—Holiday Inn, 1000 East Sixth Street, Reno, Nevada 89512, telephone (702) 825-2940

Thursday, January 23, 1992—Westin Plaza, 1350 Blue Lake Boulevard North, Twin Falls, Idaho 83303, telephone (208) 733-0650.

[FR Doc. 92-618 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. TM92-10-20-000]**

### Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

January 6, 1992.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on December 31, 1991, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, as set forth in the revised revised tariff sheets:

**Proposed To Be Effective February 1, 1992**

3 Rev Sheet No. 63

Algonquin states that it is filing Sheet No. 63 to concurrently track the change made by Texas Eastern Transmission Corporation ("Texas Eastern") in the rates underlying Algonquin's Rate Schedule ATAP. Pursuant to § 4.2 of Rate Schedule ATAP, the proposed effective date of Sheet No. 63 is February 1, 1992 to coincide with the effective date of Texas Eastern's filing. The effect of the revision in rates in Rate Schedule ATAP is to decrease the Commodity (Maximum, Minimum and Interruptible) rates by 0.06¢ per MMBtu.

Any person desiring to be heard or to protest said filing should file a motion to

intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions and protests should be filed on or before January 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 92-619 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. TA92-1-20-000]**

## Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

January 6, 1992.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on December 31, 1991, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, as set forth in the revised tariff sheets:

**Proposed To Be Effective March 1, 1992**

Primary Tariff Sheets
11 Rev Sheet No. 21
11 Rev Sheet No. 22
7 Rev Sheet No. 25
11 Rev Sheet No. 26
11 Rev Sheet No. 27
11 Rev Sheet No. 28
11 Rev Sheet No. 29
Alternate Tariff Sheets
Alt 11 Rev Sheet No. 21
Alt 11 Rev Sheet No. 22
Alt 7 Rev Sheet No. 25
Alt 11 Rev Sheet No. 26
Alt 11 Rev Sheet No. 27
Alt 11 Rev Sheet No. 28
Alt 11 Rev Sheet No. 29
First Revised Sheet No. 636
First Revised Sheet No. 637
First Revised Sheet No. 638
First Revised Sheet No. 639
First Revised Sheet No. 640

Algonquin states that the revised tariff Sheet Nos. 21 through 29, listed above, are being filed as part of Algonquin's regularly scheduled Annual Purchased Gas Adjustment ("PGA") and Transportation Cost Adjustment ("TCA") to reflect the standby service costs to be charged by Texas Eastern Transmission Corporation ("Texas Eastern"), Transportation and Compression by Other Costs ("T&C Costs") from Texas Eastern and Transcontinental Gas Pipe Line Corporation and purchased gas costs to be charged by various suppliers.

Algonquin states that the effect of the change in rates in the primary sheets listed above is to increase the demand charges by $0.0320 per MMBtu and to decrease the commodity charges by $0.1274 per MMBtu under all of Algonquin's firm sales rate schedules from those rates contained in Algonquin's last quarterly PGA and TCA filing, made November 1, 1991 in Docket Nos. TQ92-2-20-000 and TM92-6-20-000 and revised per Commission Letter Order of October 31, 1991 in Docket Nos. TQ92-1-20-001 and TM92-3-20-001.

Algonquin further states that the alternate sheets listed above are being filed to incorporate its request for the annualization of projected GSIR Charges to be paid to Texas Eastern during the contract year ending October 31, 1992. The effect is to increase the demand rate by $2.8830 over the rate found in the primary tariff sheets.

Algonquin states that the proposed effective date for the listed tariff sheets is March 1, 1992.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions and protests should be filed on or before January 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 92-620 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. TQ92-3-48-000]**

## ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

January 6, 1992.

Take notice that ANR Pipeline Company (ANR), on December 31, 1991, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet to be effective February 1, 1992:

Fifty-Fourth Revised Sheet No. 18

ANR states that the purpose of the instant filing is to implement ANR's quarterly PGA rate adjustment pursuant to section 15 of the General Terms and Conditions of ANR's Tariff.

ANR states that copies of the filing were served upon all of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are available for public inspection in the public reference room.

**Lois D. Cashell,**

*Secretary*

[FR Doc. 92-621 Filed 1-9-92; 8:45 am]

BILLLING CODE 6717-01-M

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**[Docket No. TM92-3-48-000]**

## ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

January 3, 1992.

Take notice that ANR Pipeline Company ("ANR"), on December 31, 1991 tendered for filing as part of its Original Volume Nos. 1, 1-A, 2 and 3 of its FERC Gas Tariff, six copies the tariff sheets as listed in Appendix A attached to the filing.

ANR states that the referenced tariff sheets are being submitted as part of ANR's Third Annual Reconciliation of buyout buydown costs being recovered by means of Volumetric Buyout Buydown Surcharges and Fixed Monthly Charges contained in Docket Nos. RP91-33 et al., RP91-192 and RP92-4. ANR has requested that the Commission accept the tendered tariff sheets to become effective February 1, 1992.

ANR states that a copy of this filing, of such applicable parts, has been mailed to all of its Volume Nos. 1, 1-A, 2

and 3 customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 N Capitol Street, NE., Washington, DC 20426 by January 10, 1992, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 92-622 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP92-72-000]**

## Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

January 3, 1992.

Take notice that Carnegie Natural Gas Company ("Carnegie") on December 30, 1991, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Twenty-Fourth Revised Sheet No. 8
Twenty-Fourth Revised Sheet No. 9

The tariff sheets have been filed to reflect a voluntary reduction of $0.1476 per Dth in the commodity rates under Carnegie's Rate Schedules CDS, LVWS, and LVIS. By reducing the commodity rates under these sales rate schedules, Carnegie anticipates that its jurisdictional gas customers will have the opportunity to purchase gas from Carnegie at rates competitive with other suppliers.

Carnegie has requested waiver of the notice requirements so as to permit the tariff sheets to become effective on January 1, 1992. Carnegie also requests, to the extent necessary, a one-day suspension of the proposed rates.

Carnegie states that copies of its filing were served on all jurisdictional sales customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before January 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 92-623 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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**[Project No. 2527-002 Maine]**

## Central Maine Power Co.; Filing of Application

January 3, 1992.

Take notice that on December 17, 1991, the Central Maine Power Company filed an application to relicense the Skelton Hydroelectric Project No. 2527-002.

The Skelton Project is located on the Saco River, in York County, Maine. The project consists of a 100-foot-long dam, a 488-acre reservoir, and a powerhouse with an installed capacity of 16.8 MW. The licensee proposes no changes in operation or new construction for the project. The current operating license expires December 31, 1993.

If any resource agency, Indian tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, a request for the study, together with justification for such request in accordance with § 4.32 of the Commission's regulations, must be filed no later than 60 days after the date of filing.

**Linwood A. Watson, Jr.,**

*Acting Secretary*

[FR Doc. 92-624 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP90-95-002]**

## Colorado Interstate Gas Co.

January 3, 1992.

Take notice that Colorado Interstate Gas Company ("CIG"), on December 20, 1991, tendered for filing a semiannual compliance filing consisting of work papers detailing accrued interest payments made by CIG to its affected customers related to the unused portion of transportation credits in the instant docket.

CIG states that copies of the filing were served upon all of the parties to this proceeding and affected state commissions as well as all of CIG's firm sales customers.

ANy person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before January 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

**Linwood A. Watson, Jr.,**

*Acting Secretary*

[FR Doc. 92-625 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER92-5-000]**

## Connecticut Light & Power Co.; Filing

January 6, 1992.

Take notice that Connecticut Light & Power Company (CP&L) tendered for filing an amendment to its October 1, 1991 filing in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before January 14, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 92-576 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP91-188-006]**

## El Paso Natural Gas Co.; Motion To Place Tariff Sheets Into Effect

January 3, 1992.

Take notice that on December 30, 1991, El Paso Natural Gas Company ("El Paso"), tendered for filing pursuant to section 4(e) of the Natural Gas Act and

section 154.67(a) of the Federal Energy Regulatory Commission's ("Commission") Regulations under the Natural Gas Act, a motion to place into effect on January 1, 1992 certain tariff sheets to its First Revised Volume No. 1-A, Second Revised Volume No. 1 and Third Revised Volume No. 2 FERC Gas Tariffs.

El Paso states that on July 1, 1991 at Docket No. RP91-188-000, it filed with the Commission a notice of change in rates and certain tariff provisions for natural gas service rendered to its transportation and sales customers to become effective August 1, 1991. By order issued July 31, 1991 at Docket No. RP91-188-000 ("Suspension Order"), the Commission conditionally accepted the tariff sheets, suspended their effectiveness for five (5) months to become effective January 1, 1992, subject to refund, and established hearing proceedings. Such acceptance of the tariff sheets was conditioned upon El Paso filing modifications to certain rates filing statements and revised tariffs sheets within thirty (30) days. El Paso states that on August 30, 1991, it filed certain data in compliance with the Suspension Order.

El Paso also states that on August 30, 1991, it filed a Request for Rehearing and Clarification on three issues contained in the Commission's July 31, 1991 order.

El Paso states that on November 27, 1991 it tendered for filing in compliance with the Commission's November 6, 1991 order at Docket No. RP91-188-002 and November 21, 1991 order at Docket No. RP91-188-001, tariff sheets which reflect the same rates as originally filed with the Commission in this proceeding.

El Paso moved to place into effect on January 1, 1992, certain tariff sheets tendered in its compliance filing made on November 27, 1991, and certain tariff sheets attached to its motion.

El Paso states that ordering paragraph (D) of the Suspension Order required El Paso to file, no later than December 31, 1991, rates and related workpapers to reflect the actual plant in service at December 31, 1991. El Paso states that it submitted a schedule reflecting the actual gas plant in service as of December 31, 1991 which exceeds the actual plant projected to be in service at December 31, 1991. Thus, since actual plant in service is in excess of the plant projected to be in service no rate adjustment has been made.

El Paso states that copies of the filing were served upon each person designated on the official service list compiled by the Secretary in Docket No. RP91-188-000, and, otherwise, upon all interstate pipeline system transportation and sales customers of El Paso and all interested state regulatory commissions.

Any person desiring to protest said filing should file protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before January 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 92-626 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP91-187-004]**

## Florida Gas Transmission Co.; Notice To Place Suspended Rates in Effect

January 6, 1992.

Take notice that on December 31, 1991, Florida Gas Transmission Company (FGT) tendered for filing A Motion to Place Suspended Rates Into Effect. FGT moves that the tariff sheets listed in appendix A attached to the filing be allowed to become effective January 1, 1992.

FGT states that the Commission Order issued July 31, 1991 in the captioned dockets suspended FGT's filed rates to be effective January 1, 1992. FGT states that it is moving the Commission, pursuant to § 154.67 of the Commission's regulations, to place the suspended rates into effect as of January 1, 1992. FGT further states that the rates shown on the tariff sheets shown on appendix A (1) eliminate the cost of facilities not in service by December 31, 1991, and (2) include the cost of gas from FGT's last quarterly PGA in Docket No. TQ92-1-34-000.

FGT also states that concurrently with the filing, FGT is filing an interim PGA effective January 1, 1992 to decrease the purchased gas cost from the level reflected in FGT's last quarterly PGA filing in Docket No. TQ92-1-34-000 and underlying the base tariff rates filed herein. FGT states that in addition to the reduction in the level of purchased gas cost, the interim PGA incorporates the base tariff rates in RP91-187-000 set forth in this filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before January 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary*

[FR Doc. 92-627 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. TQ92-2-34-000]**

## Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

January 3, 1992.

Take notice that on December 31, 1991 Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, the following tariff sheets, to become effective February 1, 1992:

Twenty-Third Revised Sheet No. 8
Third Revised Sheet No. 222
Fourth Revised Sheet No. 223
Third Revised Sheet No. 224
Fourth Revised Sheet No. 225
Fourth Revised Sheet No. 226
Fifth Revised Sheet No. 227
Fourth Revised Sheet No. 228
Fourth Revised Sheet No. 229
Fourth Revised Sheet No. 230
Third Revised Sheet No. 231
Fifth Revised Sheet No. 232
First Revised Sheet No. 525
First Revised Sheet No. 526
Second Revised Sheet No. 527
First Revised Sheet No. 528
First Revised Sheet No. 528
Second Revised Sheet No. 530
Second Revised Sheet No. 531
Second Revised Sheet No. 532
Second Revised Sheet No. 533
Second Revised Sheet No. 534
Second Revised Sheet No. 535
Second Revised Sheet No. 536
Second Revised Sheet No. 537

FGT states that Twenty-Third Revised Sheet No. 8 is being filed in accordance with § 154.308 of the Commission's Regulations and pursuant to section 15 of FGT's FERC Gas Tariff, Second Revised Volume No. 1 to reflect a decrease in FGT's jurisdictional rates due to a decrease in its average cost of gas purchased from that reflected in its Quarterly PGA filing, Docket No. TQ92-1-34-000, effective November 1, 1991 and in FGT's Motion to Make Suspended Rates Effective in Docket Nos. RP91-187-000 and CP91-2448-000

filed on December 31, 1991 to be effective January 1, 1992.

FGT further states that on July 1, 1991 FGT filed in Docket Nos. RP91-187-000 and CP91-2448-000 pursuant to section 4(e) of the Natural Gas Act to effectuate changes in rates and terms applicable to FGT's jurisdictional services. By Order dated July 31, 1991 the Commission accepted and suspended the tariff sheets to be effective January 1, 1992. In the Motion to Make Suspended Rates Effective, FGT filed tariff sheets to remove the cost of facilities not in service pursuant to the Commission's July 31 Order. The Motion filing also incorporated the cost of gas included in FGT's last quarterly filing in Docket No. TQ92-1-34-000 effective November 1, 1991.

FGT's projected purchase cost of gas for the period February 1, 1992 through April 30, 1992, shown in detail on Schedule Q1 herein, represents a decrease from $2.6465/MMBtu saturated, as reflected in FGT's Quarterly PGA filing in TQ92-1-34-000 as incorporated into the Motion filing to $2.1452/MMBtu saturated in the instant filing.

FGT further states that FGT is required to update its Index of Entitlements concurrently with its Quarterly PGA filing pursuant to Section 9 of the General Terms and Conditions of its Tariff and has included such changes. Additionally, FGT states that it is filing to update its Index of Requirements contained in the General Terms and Conditions of its Tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

*Acting Secretary.*

[FR Doc. 92-628 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-3-46-000]

## Kentucky West Virginia Gas Co.; Proposed Change in FERC Gas Tariff

January 3, 1992.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on December 31, 1991, tendered for filing with the Federal Energy Regulatory Commission (Commission) a Quarterly PGA filing, which includes Thirty-third Revised Sheet No. 41 to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective February 1, 1992. The revised tariff sheet reflects a current decrease of $.0018 per Dth in the average cost of purchased gas resulting in a Weighted Average Cost of Gas of $1.9482 per Dth.

Kentucky West states that, effective February 1, 1992, pursuant to its obligations under various gas purchase contracts, it has specified a total price of $1.9531 per Dth, inclusive of all taxes and any other production-related costs add-ons, that it would pay under these contracts.

Kentucky West states that, by its filing, or any request or statement made therein, it does not waive any rights to collect amounts, nor the right to collect carrying charges applicable thereto, to which it is entitled pursuant to the mandate of the United States Court of Appeals for the Fifth Circuit issued on March 6, 1986, in *Kentucky West Virginia Gas Co.* v. *FERC*, 780 F.2d 1231 (5th Cir. 1986), or to which it is or becomes entitled pursuant to any other judicial and/or administrative decisions.

Kentucky West states that a copy of its filing has been served upon each of its jurisdictional customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

*Acting Secretary.*

[FR Doc. 92-629 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-248-010]

## Mississippi River Transmission Corp.; Report of Refunds

January 6, 1992.

Take notice that on December 8, 1991, Mississippi River Transmission Corporation tendered for filing with the Federal Energy Regulatory Commission its refund report.

MRT states that on October 7, 1991 it made refunds, including interest, to its jurisdictional customers for the period April 1, 1990 through July 31, 1991 in compliance the Article X of the Stipulation and Agreement dated May 20, 1991 and the Commission's order dated August 7, 1991 in Docket No. RP89-248 *et al.*

MRT states that copies of the filing have been provided for each of MRT's affected customers at the time the refund was made.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before January 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

*Secretary.*

[FR Doc. 92-630 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. RP92-73-000]

## National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

January 3, 1992.

Take notice that on December 31, 1991, National Fuel Gas Supply Corporation ("National") tendered for filing proposed changes in its FERC Gas Tariffs, Second Revised Volume No. 1 and First Revised Volume No. 2.

National states that the revised tariff sheets reflect changes in the level of National's rates to provide an annual increase in revenue from jurisdictional sales and services of approximately $111,100,000 when compared to the base rates established by the settlement at Docket Nos. RP86-136-000 *et al.*, the certificate filings at Docket Nos. CP88-194-000 and RP91-219-000, and the PGA which was effective October 1, 1991.

National further states that the proposed rates are based on a test year cost-of-service for the 12 months ended September 30, 1991, as adjusted for known and measurable changes through June 30, 1992.

These revised tariff sheets, which are listed at Appendix A attached to the filing, are proposed to become effective on February 1, 1992.

National states that a copy of this filing was posted to § 154.16 of the Commission's Regulations and that copies of this filing were served upon the company's jurisdictional customers and upon the regulatory commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts and New Jersey.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 214 or 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such motions to intervene or protests should be filed on or before January 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Parties already granted an intervenor status in this proceeding need not file motions to intervene in order to be considered parties herein. Copies of this filing are on file with the Commission and are available for public inspection.

**Linwood A. Watson, Jr.,**

*Acting Secretary*

[FR Doc. 92-631 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. TA92-1-27-000]**

## North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

January 6, 1992.

Take notice that North Penn Gas Company (North Penn) on December 31, 1991, tendered for filing Tenth Revised Sheet No. 3A to its FERC Gas Tariff, First Revised Volume No. 1.

This filing is North Penn's Annual PGA rate filing proposed to become effective March 1, 1992 and is designed to reflect changes in the cost of gas for the period March 1, 1992 through May 31, 1992. The changes in the cost of gas for this period result in a decrease of $0.84140 per Mcf to the G-1 Rate Schedule.

North Penn has also computed a surcharge credit of $0.06397 per Mcf to amortize over twelve months the overrecovered purchased gas costs accumulated in Account 191 during the period November 1, 1990 through October 31, 1991.

North Penn requests waiver of any of the Commission's Rules and Regulations as may be deemed necessary in order to permit the proposed tariff sheet to become effective March 1, 1992.

North Penn states that copies of this letter of transmittal and all enclosures are being mailed to each of North Penn's jurisdictional customers and state commissions shown on the attached service list.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary*

[FR Doc. 92-632 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP92-75-000]**

## Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

January 6, 1992.

Take notice that Northern Natural Gas Company (Northern) on January 2, 1992, tendered for filing to become part of Northern's FERC Gas Tariff Third Revised Volume 1, the following tariff sheet, proposed to be effective February 2, 1992:

Second Revised Sheet No. 52F.12a

Northern states that such tariff sheet is being submitted in compliance with the Commission's Final Rule in Order No. 537, issued September 20, 1991, in Docket No. RM90-7-000. Northern is clarifying its currently effective Rate Schedule FT-1 by requiring a Certification for transportation services under NGPA section 311(a)(1) executed by the Shipper and by the "on behalf of" party.

Northern further states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 18 CFR 385.211). All such petitions or protests should be filed on or before January 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 92-633 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP89-1-017]**

## Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

January 6, 1992.

Take notice that on December 26, 1991, Northwest Pipeline Corporation (Northwest) tendered for filing and acceptance First Revised Sheet No. 14 to be part of its FERC Gas Tariff, Second Revised Volume No. 1. Northwest has requested an effective date of December 21, 1991 for the tendered tariff sheet.

Northwest states that the purpose of the filing is to revise Sheet No. 14, to comply with the Commission's letter order issued on November 21, 1991 in the above docket. In its letter order, the Commission approved Northwest's Docket No. RP89-1 Joint Offer of Settlement which was filed on August 2, 1991. Northwest states that Sheet No. 14 reflects revised direct bill amounts as contained in the Joint Offer of Settlement.

Northwest states that a copy of the filing is being served upon Northwest's jurisdictional customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed

on or before January 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary*

[FR Doc. 92-634 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket Nos. MT92-3-000 and MG92-3-000]**

## Pacific Gas Transmission Co.; Change in Tariff

January 6, 1992.

Take notice that on December 20, 1991, Pacific Gas Transmission Company (PGT) tendered for filing and acceptance certain tariff revisions to its FERC Gas Tariff, Original Volume No. 1-A to implement the marketing affiliate reporting requirements of § 250.16 of the Commission's regulations. Also filed was PGT's procedures to implement the marketing affiliate standards of conduct in accordance with the requirements of § 161.3 of the Commission's regulations.

PGT seeks a waiver of the 30-day notice requirement of § 154.51 to permit these proposed tariff changes to become effective January 1, 1992, consistent with the request of Pacific Gas and Electric Company (PG&E), PGT's sales customer, to convert a portion of its firm sales entitlement to firm transportation, as of January 1, 1992.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

**Lois D. Cashell,**

*Secretary*

[FR Doc. 92-575 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. TQ92-2-86-000]**

## Pacific Gas Transmission Co.; Change in Sales Rates Pursuant to Purchased Gas Adjustment

January 6, 1992.

Take notice that on December 24, 1991, Pacific Gas Transmission Company (PGT) submitted for filing pursuant to part 154 of the Federal Energy Regulatory Commission's (Commission) regulations a proposed change in rates applicable to service rendered under Rate Schedule PL-1, affected by and subject to paragraph 21, "Purchased Gas Cost Adjustment" (PGA), of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. Such rates are proposed to become effective February 1, 1992.

PGT states that copies of the filing has been served on PGT's jurisdictional sales customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 285.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

**Lois D. Cashell,**

*Secretary*

[FR Doc. 92-635 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. TA92-1-28-000, TM92-3-28-000]**

## Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

January 6, 1992.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on December 31, 1991, tendered for filing the following revised tariff sheets listed to its FERC Gas Tariff, Original Volume No. 1:

4th/Eighty-Eighth Rev Sheet No. 3-A
4th/Second Revised Sheet No. 3-A.1
4th/Sixty-Fifth Revised No. 3-B
4th/Twelfth Revised Sheet No. 3-B.1

The proposed effective date of these tariff sheets is March 1, 1992.

Panhandle states that these revised tariff sheets filed herewith reflect a net commodity rate increase of 24.36¢ per Dt. This increase reflects:

(1) A (15.31¢) per Dt. decrease in the projected purchased gas cost component computed in accordance with § 18.2 of the General Terms and Conditions of Panhandle's tariff; and

(2) A 34.55¢ Dt. increase in the surcharge to recover the Current Deferred Account Balance at October 31, 1991 and related carrying charges pursuant to § 18.3 of the General Terms and Conditions of Panhandle's tariff; and

(3) A 5.12¢ per Dt. increase pursuant to section 22 of the General Terms and Conditions of Panhandle's tariff (ANGTS tracking mechanism).

Panhandle further states that these revised tariff sheets filed herewith also reflect the following changes to Panhandle's D1 and D2 demand rates:

(1) A decrease of ($0.80) for D1 pursuant to section 22 of the General Terms and Conditions of Panhandle's tariff (ANGTS tracking mechanism); and

(2) An increase of $1.48 for D1 and an increase of 0.04¢ for D2 pursuant to § 18.4 of the General Terms and Conditions of Panhandle's tariff (pipeline suppliers' demand costs).

Panhandle states these changes are being made in accordance with § 154.305 (Annual PGA Filing) of the Commission's Regulations and pursuant to section 18 (Purchased Gas Cost Rate Adjustment) and section 22 (ANGTS tracking mechanism) of Panhandle's FERC Gas Tariff, Original Volume No. 1. Panhandle has included in this filing projected gas purchase volumes from its suppliers for the three (3) month period commencing March 1, 1992, as detailed in Schedule A1.

Panhandle states that copies of its filing have been served on all jurisdictional sales customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with such motions 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to

intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

*Secretary.*

[FR Doc. 92-636 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-225-015]

## South Georgia Natural Gas Co.; Report of Refunds

January 6, 1992.

Take notice that on December 13, 1991 South Georgia Natural Gas Company (South Georgia) tendered for filing with the Federal Energy Regulatory Commission a refund report showing that on December 2, 1991 it made refunds to its customers in compliance with the Commission's order dated October 31, 1991 in Docket No. RP89-225 *et al.*

South Georgia states that copies of the filing are being made available in South Georgia's offices in Birmingham, Alabama, and are being mailed to all of South Georgia's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before January 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

*Secretary.*

[FR Doc. 92-637 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-74-000]

## South Georgia Natural Gas Co.; Proposed Changes in FERC Gas Tariff

January 3, 1992.

Take notice that on December 31, 1991, South Georgia Natural Gas Company ("South Georgia") tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1. The proposed changes are based on the twelve-month period ending September 30, 1991, as adjusted, and would increase revenues from transportation services by approximately $1.5 million annually.

South Georgia states that one of the principal reasons for the rate increase is to reflect the redesign of rates that occurs as a result of South Georgia's transition to a 100% transportation system effective March 1, 1992. South Georgia submits that this conversion of 100% of its jurisdictional sales service to firm transportation results in significant undercollections under presently effective rates. South Georgia states that its rate filing is also necessitated by an increase in cost of service that is primarily the result of recent plant additions, increased operation and maintenance expenses and a requested increase in allowed return on equity designed to compensate for increased business risk being experienced by South Georgia.

South Georgia requested that the Commission grant such waivers of its regulations as may be necessary to allow the proposed tariff sheets to become effective March 1, 1992. South Georgia explained that this shortened suspension period is necessary in order to mitigate the severe economic result South Georgia would otherwise experience and in order to synchronize the termination of its merchant function with the implementation of its new transportation rates.

South Georgia states that copies of South Georgia's filing were served upon all of South Georgia's jurisdictional purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

*Acting Secretary*

[FR Doc. 92-638 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-391-008]

## Transcontinental Gas Pipe Line Corp.; Supplemental Compliance Filing

January 6, 1992.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on September 6, 1991 certain revised tariff sheets to Third Revised Volume No. 1 of its FERC Gas Tariff, which tariff sheets are enumerated in Appendix A attached to the filing and are proposed to be effective August 1, 1991 and September 1, 1991 respectively.

Transco states that the purpose of the instant filing is to supplement Transco's compliance filing of July 22, 1991 in Docket No. CP88-391-006. Transco states that such filing provided for, *inter alia*, a new Third Revised Volume No. 1 tariff which implements Transco's GIC Settlement and Rate Settlement, which settlements were approved with modifications by the Commission order issued June 19, 1991 in Docket Nos. CP88-391-004, *et al.*

Transco states that in response to comments received from interested parties, Transco submitted in the instant filing certain substitute tariff sheets which reflect minor modifications and corrections to the tariff sheets submitted in Transco's July 22 compliance filing.

Transco states that copies of the instant filing were served to its customers, state commissions and interested parties to Docket Nos. CP88-391-004, *et al.*

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before January 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

*Secretary.*

[FR Doc. 92-639 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-391-007]

## Transcontinental Gas Pipe Line Corp.; Supplement to Compliance Filing

January 6, 1992.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on July 31, 1991 as a supplement to its July 22, 1991 compliance filing in the referenced docket the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 2:

Substitute Sixth Revised Sheet No. 41
Thirteenth Revised Sheet No. 41-A
First Revised Sheet No. 41-B
First Revised Sheet No. 59-E
First Revised sheet No. 59-F

Transco states that the purpose of the instant filing is to withdraw the proposed termination, as of August 1, 1991, of Rate Schedule X-11 and to continue the effectiveness of said rate schedule beyond August 1, 1991, In that regard, in its order issued June 19, 1991 in Docket No.'s CP88-391-004, et al. (June 19 Order), the Federal Energy Regulatory Commission (Commission) authorized, *inter alia*, the abandonment of firm transportation service provided by Transco to Sun Refining and Marketing Company (Sun) under Rate Schedule X-11. Transco, in its July 22 compliance filing made pursuant to the June 19 Order, submitted Sixth Revised Sheet No. 41 to its FERC Gas Tariff, Original Volume No. 2, which revised tariff sheet provided for the termination of Rate Schedule X-11 effective August 1, 1991. On July 2, 1991, Sun filed a request for rehearing or stay of the Commission's June 19 Order. On July 26, 1991 the Commission granted Sun's request for stay of abandonment of service under Rate Schedule X-11 pending Commission action on requests for rehearing. Therefore, in order to continue to provide service to Sun under Rate Schedule X-11, pending further developments, Transco is withdrawing its proposed termination of service and submitting certain additional revised tariff sheets regarding the rates and terms of service applicable to Sun.

Transco is serving copies of the instant filing upon all parties served with the July 22, 1991 compliance filing in Docket No. CP88-391-006. In accordance with provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before January 18, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 92-640 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. TQ92-1-82-000, TM92-3-82-000]

## Viking Gas Transmission Co.; Tariff Filing Pursuant to Tariff Rate Adjustment Provisions

January 3, 1992.

Take notice that on December 31, 1991, Viking Gas Transmission Company ("Viking") filed the following tariff sheets to Volume No. 1 of its FERC Gas Tariff:

First Revised Sixteenth Revised Sheet No. 6.
Second Revised Sixteenth Revised Sheet No. 6

Viking states that the purpose of First Revised Sixteenth Revised Sheet No. 6, which Viking proposes become effective on January 1, 1992, it to reflect an increase of $.0005 in the Gas Research Institute surcharge from $.0142 to $.0147.

Viking further states that the purpose of Second Revised Sheet No. 6 is to reflect quarterly purchased gas cost rate adjustments to Viking's rates for the period of February through April, 1992. The purchased gas cost rate adjustments consist of a $.0637 per dekatherm adjustment to the gas component of Viking's sales rates and a $1.52 per dekatherm adjustment to the demand component of those rates.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest will the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before January 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Linwood A. Watson, Jr.,**

*Acting Secretary*

[FR Doc. 92-641 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. TQ92-2-52-000 and 001]

## Western Gas Interstate Co.; Proposed Changes in FERC Gas Tariff

January 3, 1992.

Take notice that on December 31, 1991, Western Gas Interstate Company ("Western"), pursuant to section 4 of the Natural Gas Act, the Commission's regulations thereunder and Western's FERC Gas Tariff, tendered for filing proposed changes to its FERC Gas Tariff, Second Revised Volume No. 1. The proposed effective date for the tariff sheets is February 1, 1992.

Western states that, its filing proposes changes to its rates in accordance with the terms of the Purchased Gas Adjustment Clause of its FERC Gas Tariff.

Western further states that the proposed changes provide for: (1) A decrease in purchased gas cost under Western's Rate Schedule CD-N of $.2871 per MMBTU; and (2) a decrease in purchased gas cost under Western's Rate Schedule CD-S of $1.0439 per MMBTU.

Finally, Western states that copies of the filing were served upon Western's transmission system customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Linwood A. Watson, Jr.,**

*Acting Secretary*

[FR Doc. 92-642 Filed 1-9-92; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. TQ92-2-49-000, TM92-3-49-000]**

## Williston Basin Interstate Pipeline Co.; Purchased Gas Adjustment Filing

January 3, 1992.

Take notice that on December 31, 1991, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, suite 300, Bismarck, North Dakota 58501, tendered for filing as part of its FERC Gas Tariff the following revised tariff sheets:

*First Revised Volume No. 1*

Thirty-ninth Revised Sheet No. 10

*Original Volume No. 1-A*

Thirty-second Revised Sheet No. 11
Thirty-eighth Revised Sheet No. 12
Nineteenth Revised Sheet No. 97A
Ninth Revised Sheet No. 275
Eighth Revised Sheet No. 275A
Eighth Revised Sheet No. 276
Eighth Revised Sheet No. 277

*Original Volume No. 1-B*

Twenty-seventh Revised Sheet No. 10
Twenty-seventh Revised Sheet No. 11

*Original Volume No. 2*

Thirty-ninth Revised Sheet No. 10
Thirty-third Revised Sheet No. 11B

The proposed effective date of the tariff sheets is February 1, 1992.

Williston Basin states that Thirty-ninth Revised Sheet No. 10 (First Revised Volume No. 1) reflects a decrease in the Current Gas Cost Adjustment applicable to Rate Schedules G-1, SGS-1 and E-1 of 1.939 cents per dkt as compared to that contained in the Company's September 30, 1991 PGA filing in Docket No. TQ92-1-49-000, which became effective November 1, 1991.

Williston Basin further states that Thirty-second Revised Sheet No. 11, Thirty-eighth Revised Sheet No. 12 and Nineteenth Revised Sheet No. 97A (Original Volume No. 1-A), Twenty-seventy Revised Sheet Nos. 10 and 11 (Original Volume No. 1-B), Thirty-ninth Revised Sheet No. 10 and Thirty-third Revised Sheet No. 11B (Original Volume No. 2) reflect an increase of .191 cents per dkt in the fuel reimbursement charge component of the Company's relevant transportation rates as compared to that contained in the Company's September 30, 1991 filing in Docket No. TQ92-1-49-000. Such increase in the fuel reimbursement charge is a result of the changes in Williston Basin's average cost of purchased gas.

Williston Basin also states that Thirty-second Revised Sheet No. 11 and Thirty-eighth Revised Sheet No. 12 (Original Volume No. 1-A) and Thirty-ninth Revised Sheet No. 10 and Thirty-third Revised Sheet No. 11B (Original Volume No. 2) reflect a revised Company-Use and Lost-and-Unaccounted-For gas percentage of 3.134% applicable to certain transportation rate schedules.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure 18 CFR 385.211 and 385.214. All such motions or protests should be filed on or before January 19, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

**Linwood A. Watson, Jr.,**
*Acting Secretary*

[FR Doc. 92-643 Filed 1-9-92; 8:45 am]
BILLING CODE 6717-01-M

## Office of Hearings and Appeals

## Cases Filed During the Week of November 29 Through December 6, 1991

During the Week of November 29 through December 6, 1991, the appeal and the applications for other relief listed in the appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: January 3, 1992.

**George B. Breznay,**
*Director, Office of Hearings and Appeals.*

LIST OF CASES RECEIVED BY OFFICE OF HEARINGS AND APPEALS

[Week of November 29 through December 6, 1991]

| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| 12/03/91 | Gulf/Pleasant Gulf, Woodbridge, VA | RR300-120 | Request for Modification/Rescission in the Gulf Refund Proceeding. |
| If granted: The October 25, 1991 Dismissal Letter (Case No. RF300-11792 & RF300-11793) issued to Pleasant Gulf would be modified regarding the firm's application for refund submitted in the Gulf Refund Proceeding. | | | |
| 12/03/91 | Texaco/Lund's Texaco, Hardin, KY | RR321-101 | Request for Modification/Rescission in the Texaco Refund Proceeding. |
| If granted: The August 16, 1991 Decision and Order (Case No. RF321-3893 & RF321-5975) issued to Lund's Texaco would be modified regarding the firm's application for refund submitted in the Texaco Refund Proceeding. | | | |
| 12/06/91 | Government Accountability Project, Washington, DC | LFA-0169 | Appeal of an Information Request Denial. |
| If granted: Government Accountability Project would receive access to the transcripts of deposition testimony of four individuals taken in connection with allegations of workplace discrimination and harassment brought by a DOE contract employee. | | | |

REFUND APPLICATIONS RECEIVED

[Week of November 29 to December 6, 1991]

| Date received | Name of refund proceeding/name of refund applicant | Case No. |
|---|---|---|
| 12/01/91 | Fomentos Armadora, S.A. | RC272-141 |
| 12/01/91 | Hydroussa Shipping Co., S.A. | RC272-142 |
| 12/01/91 | Kronos Maritime Agency, S.A. | RC272-143 |
| 12/01/91 | Ocean Freighters Ltd. | RC272-144 |
| 12/01/91 | The Epirotiki Steamship Co. | RC272-145 |
| 12/01/91 | Prometheus Martime Corp. | RC272-146 |
| 12/01/91 | Eastern Mediterranean Martime | RC272-147 |
| 12/01/91 | Thenamaris Inc. | RC272-148 |
| 12/01/91 | Union Commercial Steamship Co. | RC272-149 |
| 12/02/91 | Otis' Spur | RF309-1422 |
| 12/03/91 | Roger W Purk | RF342-64 |
| 12/03/91 | Loupe's Shell Service | RF315-10177 |
| 12/03/91 | John J. Meiler, Jr. | RF307-10201 |
| 12/04/91 | Quality Oil Company I | RF315-10178 |
| 12/04/91 | A. Karmandarian Clark Super | RF342-65 |
| 12/04/91 | Darwin Petchell | RF342-66 |
| 12/02/91 | Brock Oil Company, Inc. | RF330-61 |
| 12/02/91 | A. J. Oil Company | RF330-62 |
| 12/02/91 | Don Johnson Oil Co. | RF330-63 |
| 12/02/91 | Butricks Clark Super 100 | RF342-60 |
| 12/02/91 | Phil's Clark | RF342-61 |
| 12/02/91 | Milton Poole Clark Super 108 | RF342-62 |
| 12/02/91 | Scotts' Clark Super 100 | RF342-63 |
| 12/02/91 | De Reu LP-Gas Co. | RF34-034 |
| 12/02/91 | Monitor Fuel Co. | RF329-10 |
| 12/02/91 | Simmons Oil Corporation | RF326-323 |
| 11/25/91 | Aratex Services, Inc. | RA272-45 |
| 12/02/91 | Don's Shell Service | RF315-10176 |
| 12/02/91 | John J. Meiler, Jr. | RF307-10200 |
| 12/04/91 | Evanite Fiber Corporation | RC272-150 |
| 12/05/91 | Lou's Automotive, Inc. | RF341-16 |
| 12/05/91 | Great Notch Exxon Service | RF307-10202 |
| 12/05/91 | Milltown Service Center | RF307-10203 |
| 12/05/91 | Keim's Clark Station | RF342-67 |
| 10/24/91 | Denver F. Stockham | RF335-53 |
| 12/06/91 | Dean's Clark Station | RF342-68 |
| 12/06/91 | "Al's Super 100" Inc. | RF342-69 |
| 12/06/91 | Dixie Oil Company of Alabama | RF324-53 |
| 11/29/91 thru 12/06/91 | Texaco Refund—Applications Received | RF321-18076 thru RF321-18096 |
| 11/29/91 thru 12/06/91 | Crude Oil Refund—Applications Received | RF272-90820 thru RF272-90847 |
| 11/29/91 thru 12/06/91 | Gulf Oil Refund—Applications Received | RF300-18705 thru RF300-18781 |
| 11/29/91 thru 12/06/91 | Atlantic Richfield—Applications Received | RF304-12627 thru RF304-12650 |

[FR Doc. 92-671 Filed 1-9-92; 8:45 am]

BILLING CODE 6450-01-M

## Issuance of Decisions and Orders During the Week of October 7 Through October 11, 1991

During the week of October 7 through October 11, 1991, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

### Appeals

*Hutchinson Carter Co., 10/8/91, LFA-0146*

Hutchinson Carter Company (HCC) filed an Appeal from a determination issued by the Albuquerque Operations Office (AOO) in which AAO withheld certain financial documents that HCC requested in its Freedom of Information Act request. In considering the Appeal, the DOE found that the justification for withholding the requested information was adequate under Exemption 4, but that further analysis was required for this withholding under Exemption 6. The Appeal was, therefore, denied in part and remanded in part.

*Olin Pantex, Inc., 10/9/91, LFA-0157*

On September 11, 1991, Olin Pantex, Inc. (OPI) filed an Appeal from a determination issued by the Albuquerque Operations Office (AOO) in response to a letter from OPI which contained seventeen Freedom of Information Act (FOIA) requests. In that determination AOO withheld information found to be responsive to some of OPI's requests. In addition, AOO informed OPI that there were no documents responsive to other of its requests. OPI appealed both the adequacy of the search regarding five of the requests for which responsive documents could not be found, and the application of the Exemptions to the

documents found to be responsive to its other requests. When the OHA contacted AOO to determine the adequacy of AOO's search for responsive documents, documents responsive to three of the requests were located. Accordingly, the OHA ordered that in regard to these three requests the appeal be remanded to AOO for a determination regarding those documents. Secondly, the OHA determined that the search for documents responsive to the other two requests was adequate. In addition, the OHA determined that Exemption 5 was properly relied upon to withhold the names of the Source Evaluation Board members. Further the OHA concluded that AOO properly relied upon Exemptions 3 and 4 to withhold the initial and best and final offers of Mason & Hanger—Silas Mason Co., Inc. However, the OHA determined that AOO could not rely upon Exemptions 3 or 4 to withhold the blank algorithm or formula used to evaluate the offers. The OHA also concluded that AOO did not provide a sufficient description of the portions of the documents withheld under Exemptions 3, 4, 5. Finally, the OHA determined that AOO must conduct a segregability determination for those documents remanded in accordance with the decision. Therefore, OPI's appeal was granted in part and denied in part.

**Remedial Order**

*Southwestern Refining Company, Inc., The Crude Company, 10/7/91, KRO-0490*

The Southwestern Refining Company, Inc. (SRCI) and The Crude Company (TCC) objected to a Proposed Remedial Order (PRO) which the Economic Regulatory Administration issued to them on December 15, 1986. The PRO alleged that during the period January through May, 1977 (the audit period), SRCI erroneously claimed small refiner bias (SRB) entitlements for 613,260 barrels of crude oil pursuant to a processing agreement with the Champlin Petroleum Company. As a result of this action, the PRO found that SRCI and TCC received SRB entitlements benefits in excess of those authorized by the Entitlements Program in the total amount of $1,202,143.07. The DOE determined that SRCI's and TCC's objections to the PRO should be denied. Specifically, the DOE found that TCC, not SRCI, was the owner of the crude oil for regulatory purposes, due to SRCI's failure to exercise any valid functions of ownership with respect to the crude oil and refined products. The DOE also found that both SRCI and TCC circumvented the entitlements regulations in violation of 10 CFR 205.202, and that TCC was fully liable, along with SRCI, as a central figure and animating force in the violations. Finally, the DOE rejected challenges to the PRO based on state statutes of limitations, laches, and the termination of the Entitlements Program, and upheld the assessment of interest on the violation amount at the levels specified in the PRO.

**Refund Applications**

*American Electric Power Service Corp.*, 10/9/91, RF272-27812

The DOE issued a Decision and Order concerning an Application for Refund filed by American Electric Power Service Corp. (AEP) in the subpart V crude oil special refund proceeding. A group of state governments filed a statement of objections to AEP's claim. The DOE found that four companies affiliated with AEP—Appalachian Power Co., Ohio Power Co., Kentucky Power Co., and Indiana & Michigan Electric Co.—had applied for refunds from the Utilities Escrow in the "Stripper Well" refund proceeding. In order to apply for a refund from the Utilities Escrow, a claimant was to waive its right and that of its parents, subsidiaries and affiliates to file any other claim for funds received as the result of alleged crude oil price or allocation violations. Thus, any claimant that filed an application for a refund from the Utilities Escrow, as well as any company affiliated with it, is barred from receiving a crude oil refund under subpart V. The DOE therefore, found that as a result of the waivers executed by it affiliates, AEP was ineligible to receive a subpart V crude oil refund, and denied its Application.

*Atlantic Richfield Company/Odessa L.P.G. Transport*, 10/9/91, RF304-4683

The DOE issued a Decision and Order granting a full volumetric refund of $17,015 plus $8,433 in accrued interest to Odessa L.P.G. Transport. The firm provided evidence of banks of unrecouped increased product costs sufficiently large to merit a full volumetric refund. In addition, a competitive disadvantage analysis revealed that the prices paid by the firm to ARCO throughout the consent order period were higher than the regional average, demonstrating that the firm suffered significant injury as a result of its purchases to ARCO products. In applying this competitive disadvantage analysis, the DOE used the historical pricing data for propane from the Weekly BPN Propane Newsletter (BPN), in lieu of Platt's Oil Price Handbook and Oilmanac (Platt's). Odessa has submitted a detailed evidentiary demonstration establishing that BPN offered more representative propane pricing information for its specific market region than did Platt's.

*Enron Corp./John Deere Des Moines Works*, 10/8/91, RF340-5

The Department of Energy (DOE) issued a Decision and Order concerning an Application for Refund filed by John Deere Des Moines Works (John Deere) in the Enron Corp. special refund proceeding. In that decision the DOE denied John Deere's claim for a refund based on 512,107 gallons of LNG (liquified natural gas) purchased indirectly from Northern Natural Gas Company, a division of Enron's predecessor internorth. The DOE determined that Northern Natural Gas Company was not a covered entity under the order implementing refund procedures for the Enron Corp. proceeding.

*Federal Employee's Distributing Company*, 10/10/91, RR272-12

The Department of Energy (DOE) issued a Decision and Order concerning the Motion for Reconsideration submitted on behalf of the Federal Employee's Distributing Company (FEDCO), a reseller of refined petroleum products. FEDCO requested reconsideration of the denial of its Application for Refund from crude oil overcharge monies available for disbursement by the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) pursuant to the provisions of 10 CFR part 205, subpart V (subpart V). FEDCO's original application was denied because the company did not demonstrate that it was injured by crude oil overcharges, a requirement for all refined petroleum product resellers in the subpart V crude oil refund proceeding. In its Motion for Reconsideration, FEDCO argued that it should be eligible for a refund because it acts in the nature of a cooperative enterprise in that it is in fact owned by its members. FEDCO asserted that it purchased products for ultimate resale to its member/owners and was thus in fact the end-user of the products. FEDCO requested that its claim be accorded the end-user presumption of injury. The DOE found that FEDCO was unable to certify direct dollar-for-dollar pass through to its member/owners for any refund granted and that any distribution of the refund would therefore be discretionary. Accordingly, it was not accorded the end-user

presumption, and the Motion for Reconsideration was denied.

*Firestone Tire and Rubber Company, et al.*, 10/7/91, *RF272-13927 et al.*

The DOE issued a Decision and Order concerning six Applications for Refund filed in the subpart V crude oil refund proceeding. Three of the applicants sought refunds based on their purchases of various grades of residual fuel used in the manufacture of carbon black. The other three applicants were firms engaged in the manufacture of tires and other rubber products, that requested refunds for scores of products, including their purchases of carbon black. A group of States and Territories (States) objected to all six applications, principally on the basis that the applicants were able to pass through to their customers increased petroleum costs during the crude oil price control period.

The DOE rejected the States' Objections to all six applications as well as the Motions for Discovery which the States had filed in connection with each of the six claims. The DOE held that industry-wide data, with no specific references to the applicants, is insufficient to rebut the presumption of injury for end-users outside the petroleum industry. The DOE also found no merit to the States' contention that four of the applicants had passed on to their customers overcharges associated with 60 refined petroleum products.

As for the competing claims for a refund based on purchases of carbon black and the feedstock used to manufacture carbon black, DOE first held that since carbon black was not regulated under the EPAA, it is not a product which is eligible for a crude oil refund. DOE next determined that the carbon black manufacturers were the end-users of the residual fuel used to make carbon black and therefore are afforded the end-user presumption of injury. DOE then evaluated the evidence tendered by the tire and rubber manufacturers and determined that it was not sufficient to demonstrate that the carbon black manufacturers had passed on to the tire and rubber companies overcharges associated with the carbon black feedstock. Finally, DOE rejected a proposed agreement entered into by all six applicants which purported to settle the issue of who is eligible for a crude oil refund for the carbon black and the feedstock used to make carbon black, determining that the acceptance of the proposed settlement agreement would undermine DOE's statutory mandate to assure that restitution is achieved. DOE concluded that the following carbon black manufacturers were entitled to receive refunds for their residual fuel purchases in the following amounts: Cabot Corporation: $1,479,109; J.M. Huber: $319,333; and Sid Richardson: $245,154.

With respect to the other 60 refined petroleum products for which four of the applicants had claimed a refund, DOE determined that the following companies were entitled to crude oil refunds in the following amounts: GenCorp Inc.: $56,471; Goodyear Tire & Rubber Company: $878,556; Firestone Tire and Rubber Company: $725,038 and J.M. Huber: $38,385. Of particular significance was a finding by DOE that Goodyear Tire and Rubber Company had presented reliable, probative evidence that the end-users of styrene and C5 streams had passed through to Goodyear the overcharges associated with the benzene component of styrene and the naphtha and gas-oil components of the C5 streams. DOE therefore decided that Goodyear was entitled to a crude oil refund based on the benzene component of styrene and the naphtha and gas-oil components of the C5 streams.

*Superior Tube company*, 10/8/91, RF272-8129, RD272-8219

Superior Tube Company, a manufacturer of small diameter metal tubing, filed an Application for Refund from the subpart V crude oil overcharge monies based upon its purchases of refined petroleum products (gasoline, fuel oil and motor oil) consumed in its business operations. A group of thirty States and Two Territories of the United States ("the States") filed an objection opposing the receipt of a refund by Superior on the ground that Superior had failed to expressly claim or submit evidence that the firm was injured by crude oil overcharges. In connection with their objection, the States also filed a Motion for Discovery. In considering the States' Objection, the DOE determined that Superior was presumptively injured by crude oil overcharges under the presumption of injury established by DOE with respect to end-users outside the petroleum industry, and that the State's general assertions were insufficient to rebut this presumption. On this basis, the DOE further determined that the State's Motion for Discovery was without basis. Accordingly, Superior's Application for Refund was approved and the State's Motion for Discovery was denied. The refund granted in this decision was $4,536.

## Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

| | | |
|---|---|---|
| AGCO, Inc. | RR272-83 | 10/11/91 |
| Atlantic Richfield Company/James Dorsey. | RF304-3594 | 10/09/91 |
| Atlantic Richfield Company/North Plains ARCO *et al.* | RF304-3594 | 10/09/91 |
| Atlantic Richfield Company/ Radkowski ARCO #1, Radkowski ARCO #2. | RF304-9206 RF304-9530 | 10/08/91 |
| Atlantic Richfield Company/ Roupen's ARCO #1, *et al.* | RF304-12464 | 10/09/91 |
| Atlantic Richfield Company/Union Carbide Corporation. | RF304-3296 | 10/11/91 |
| Citronelle-Mobile Gathering/Shell Oil Company. | RF336-7 | 10/11/91 |
| Fletcher Oil & Refining Co./Thrifty Oil Company. | RF329-8 | 10/09/91 |
| Gulf Oil Corporation/ Garrity Oil Company, Inc. *et al.* | RF300-13522 | 10/09/91 |
| Gulf Oil Corporation/ Lancia Oil Company, Inc., Lancia Oil Co., Inc. | RF300-12645 RF300-12646 | 10/08/91 |
| Gulf Oil Corporation/ Platolene "500", Inc. *et al.* | RF300-14008 | 10/09/91 |
| Gulfstream Aerospace Corp. | RF272-75857 | 10/10/91 |
| Murphy Oil Corp./ Midwest Industrial Fuel, Inc. | RF309-141 | 10/08/91 |
| Texaco Inc./ Canadian American Oil Co. *et al*, Canadian American Oil Co. | RF321-8012 RF321-12262 | 10/11/91 |
| Texaco Inc./Cirelli's Texaco. | RF321-16805 | 10/09/91 |
| Texaco Inc./Harley's Texaco *et al.* | RF321-340 | 10/09/91 |
| Texaco Inc./Texas Utilities Generating Co. *et al.* | RF321-11107 | 10/07/91 |
| Thomas P. Reidy, Inc./Marathon Oil Company. | RF322-9 | 10/11/91 |
| Yosemite Park and Curry Co. | RF272-8339 | 10/08/91 |

## Dismissal

The following submissions were dismissed:

| Name | Case No. |
|---|---|
| A.J.'s Texaco #2 | RF321-723 |
| Beaverhead County, MT | RF272-85325 |
| Bob's Texaco | RF321-7186 |
| Buchanan County, IA | RF272-85242 |
| Calvert County Public Schools | RF272-79453 |
| D.D. Hartman | RF321-5903 |
| Discount Texaco Service | RF321-17086 |

| Name | Case No. |
|---|---|
| Don's AM/PM Arco | RF304-4005 |
| Don's AM/PM Arco | RF304-4004 |
| Englewood Hospital | RF272-88711 |
| Farmington Mall Texaco | RF321-216 |
| G.D. Spears Texaco | RF321-17089 |
| Harjers Texaco | RF321-17093 |
| J.A. Ingrum Consignee | RF321-16327 |
| Jimmie's Texaco | RF321-2462 |
| Lyndale Texaco | RF321-17091 |
| Negaunee Spur | RF309-1414 |
| Normandale Texaco | RF321-17088 |
| Oasis Service, Inc | RF315-0288 |
| Oswego Oil Service Corp | LEE-0027 |
| Pilot Freight Carriers, Inc | RF272-78049 |
| Pilot Freight Carriers, Inc | RF272-78051 |
| Plantation Texaco | RF321-17087 |
| Richardson County, NE | RF272-85779 |
| Southport Texaco | RF321-17090 |
| St. George Oil Company | RF304-62 |
| T&Y Texaco Service | RF321-17092 |
| Theo John Shell | RF315-0276 |
| Wenatchee School District | RF321-16889 |
| Wilson Oil Company | RF309-1261 |

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: January 3, 1992.

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

[FR Doc. 92-675 Filed 1-9-92; 8:45 am]

BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL-4091-9]**

### Public Water Supply Supervision Program; Program Revision for the State of Arkansas, Oklahoma and Texas

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the States of Arkansas, Oklahoma and Texas are revising their approved State Public Water Supply Supervision Primacy Program. Arkansas, Oklahoma and Texas have adopted drinking water regulations for (1) filtration, disinfection, turbidity, giardia lamblia, viruses, legionella, and heterotrophic bacteria that correspond to the National Primary Drinking Water Regulations for filtration, disinfection, turbidity, giardia lamblia, viruses, legionella, and heterotrophic bacteria promulgated by EPA on June 29, 1989 (54 FR 27486); and (2) total coliforms (including fecal coliforms and E. Coli) that correspond to the National Primary Drinking Water Regulations for total coliforms (including fecal coliforms and E. Coli) promulgated by EPA on June 29, 1989 (54 FR 27544). EPA has determined that these State program revisions are no less stringent than the corresponding Federal regulations. Therefore, EPA has tentatively decided to approve these State program revisions.

All interested parties are invited to request a public hearing. A request for a public hearing must be submitted by February 10, 1992, to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by February 10, 1992, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on February 10, 1992.

A request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing. (2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing. (3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

**ADDRESSES:** All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Division of Engineering, Arkansas Department of Health, 4815 West Markham, Little Rock, Arkansas 72201

Water Quality Service-0207, Oklahoma State Department of Health, 1000 NE. 10th Street, Oklahoma City, Oklahoma 73117-1299

Water Hygiene Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756

Regional Administrator, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733

**FOR FURTHER INFORMATION CONTACT:** O. Thomas Love, Jr., EPA, Region 6, Water Supply Branch, at the Dallas address given above; telephone (214) 655-7150, FTS 255-7150.

(Sec. 1413 of the Safe Drinking Water Act, as amended, (1986) and 40 CFR 142.10 of the National Primary Drinking Water Regulations)

Dated: December 31, 1991.

**Joe D. Winkle,**

*Acting Regional Administrator.*

[FR Doc. 92-666 Filed 1-9-92; 8:45 am]

BILLING CODE 6560-50-M

**[FRL-4091-6]**

### Underground Injection Control Program; Approval of Oxygen Activation Method for Mechanical Integrity Testing of Injection Well Classes I-V

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of alternative method; final approval.

**SUMMARY:** Based upon the comments reviewed by EPA technical staff, the Agency finds that the oxygen activation methodology is at least as effective as currently approved mechanical integrity test procedures and is acceptable as a viable alternative test. Therefore, the Agency is granting approval for the use of the Oxygen Activation method to test fluid movement into underground sources of drinking water (USDWs) through channels adjacent to the injection well bore as an alternative to those tests specified in the Code of Federal Regulations under 40 CFR 146.8(b).

**DATES:** This approval is effective as of January 10, 1992.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey B. Smith; Office of Ground Water and Drinking Water (WH-550G), U.S. EPA, Washington, DC 20460; (202) 260-5586.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The State Drinking Water Act (SDWA) (42 U.S.C. 300h, *et seq.*) is intended to protect underground sources of drinking water (USDWs) from contamination by underground injection. One of the cornerstones of the Underground Injection Control (UIC) program is verification of the mechanical integrity of wells. Mechanical integrity (MI) is defined as the absence of significant leaks in the casing, tubing or packer, and the absence of significant fluid movement into USDWs through vertical channels adjacent to the injection well bore. This movement can occur from either the injection zone or from other zones or aquifers. Acceptable methods for

evaluating mechanical integrity are specified in 40 CFR 146.8 for State programs administered by EPA and in the program applications of the States with primary enforcement responsibility for injection wells. Section 146.8(d) states that the Director of the UIC program in a State may allow alternative mechanical integrity tests if approved by the Administrator of the EPA. The Administrator has delegated authority to approve alternative test procedures to the Director of the Office of Ground Water and Drinking Water.

The Oxygen Activation Method, using a downhole wireline well logging instrument, employs a measurement technique in which the stable isotope of oxygen, associated in any form of water located behind the casing, is temporarily converted to an unstable isotape of nitrogen with a very short half-life (7.13 seconds). In effect, the unstable nitrogen isotope acts as a tracer to enable a multiple detector system on the instrument to measure any flow of water-bearing fluid past the logging instrument.

On September 19, 1991 (56 FR 47474), EPA published a notice indicating its intent to reissue approval of the oxygen activation (OA) test as an acceptable alternative mechanical integrity test procedure. The purpose of the notice was to solicit additional public comments on the use of the OA test because of concerns raised by the American Petroleum Institute (API) regarding the technical basis for EPA's original approval of the test on February 1, 1991 (56 FR 4063).

The EPA provided an updated docket of information for public inspection supporting the OA test and the Agency's rationale for approval of the methodology. Written comments and referenced data were to be submitted on or before October 21, 1991, for consideration in this final decision.

EPA received comments from 8 concerned parties. The commenters expressed general concerns as to the technical reliability of this new technology and the issue of cost effectiveness. EPA's responses to these comments are detailed below.

## II. Response to Comments

### *A. Oxygen Activation Method Performance Characteristics*

The API stated that based upon results from Paap et al. of Texaco, ". . . there are flow situations and wellborne configurations in which the OA method can not detect flow. . .", which would indicate to OA log is not a reliable indicator of a loss of mechanical integrity. In response, EPA believes that its independent testing of both the Atlas Wireline "Hydrolog" and Schlumberger "Water Flow Log" logging instruments (the two commercially available OA logging services) verify the accuracy and versatility of the OA technology and that EPA experimental data are consistent with the results provided in the Paap report.

The Paap report is based on tests that were run on an early model of the "Hydrolog" in May, 1988. The tests were conducted at a Texaco laboratory facility. The fluid flow was confined to a 1.25" diameter string of tubing located at a distance of 5.64 inches from the logging instrument. Water was pumped through the tubing at flow rates ranging from 0.1754 to 2.27 gallons/minute (gpm). Paap et. al. stated that "Flow channels of 1.25 inch diameters can be detected with at least 95% confidence behind either a single 7 inch, 23#/ft casing string or behind a dual 7 in., 23#/ft + 4.4 in., 11.6#/ft casing string at volume flow rates as low as 8 barrels/day when data accumulation times are 20 minutes or longer". The fact that the tubing was located inside a string or multiple strings of casing is not specifically mentioned in the report. Assuming that the OA instrument was used to test water flow under the described physical conditions, the results indicate that water flowing in the 1.25" tubing that was located inside a single piece of steel casing (the 7" casing) or two, concentric steel casings (a 4.4" casing located inside a 7" casing) could be detected at flow rates of 0.178 gpm (equivalent to 8 barrels/day) at least 95% of the time.

As noted above, a series of tests at the EPA Mechanical Integrity Testing and Training Facility (MITTF) were conducted to evaluate the Atlas Wireline "Hydrolog" and Schlumberger "Water Flow Log" under simulated field operating conditions. The tests were set up so that the instrument was suspended in a string of 2⅜" tubing located within a 5½" steel casing string. Water was then flowed through a separate string of 2⅜" tubing that was located on the outside of the 5½" casing (i.e., in the annular space between the casing string and the borehole wall). In all cases the "Hydrolog" and "Water Flow Log" were capable of detecting flow rates of 0.22 and 0.25 gals/min, respectively. These flow rates are very close to the minimum flow rate (0.177 gpm) used in the less sophisticated Texaco experiment. Both OA instruments (Atlas Wireline "Hydrolog" and Schlumberger "Water Flow Log") have consistently been able to detect a variety of flow rates (including exceedingly low flow rates described above) under wellbore conditions that more closely simulate actual field injection wells than the Texaco "bench-scale" experiment. Thus, EPA believes that the OA method has reliably demonstrated the ability of this technology to consistently identify very low flow rates behind one or more strings of casing.

API also cited the possibility of misinterpretation of the test results due to a lack of knowledge of downhole conditions on the part of the test evaluators. EPA agrees that this is a possibility; EPA notes that there are no production logs that should be interpreted without an understanding of the downhole environment. Randomly picking up any geophysical log and making an interpretation, regarding the mechanical integrity of the well, based solely upon the presented data can lead to misleading results. All geophysical logs are at best semi-quantitative. EPA believes that no knowledgeable professional—either company or regulatory personnel—would try to evaluate an OA (or any other similar log) response without using all available data on geology, well configurations, and production characteristics. Thus, EPA believes that the relatively small potential for misinterpretation is not significant enough concern to disapprove the OA method.

Dupont stated its concern that ". . . the EPA Ada test well in Oklahoma is a specially constructed monitor/test well, [where] these simple well conditions do not necessarily reflect the majority of normal well construction techniques used in the industry." EPA agrees that its MITTF is indeed unique. The test facility has been designed especially to enable researchers to accurately simulate downhole flow conditions and cement "channels" to enable testing of various logging instruments and methodologies under known, controlled conditions. Both Class I and Class II wells operated by the chemical and petroleum industries, respectively, are constructed with concentric strings of tubing, long string casing and surface casing. The difference between industry injection wells and the MITTF is the fact that there is no foolproof or guaranteed method of ascertaining exactly what conditions (e.g., cement quality and quantity and/or fluid flow) are present in the annular space between the outermost casing string and the borehole wall in the industry wells. Therefore, any attempt to run a series of carefully controlled experiments in an operating industry well would be difficult or impossible since there is no way of proving a priori what conditions actually

exist below the surface of the ground. Similarly, running a number of different logs in an operating well may not give clear cut results; especially if the log responses contradict one another. Without accurate, empirical data on the physical conditions in the annular space there is no way to guarantee that one log response is correct and another is incorrect. The MITTF allows researchers to control flow volumes, rates, and pressures to enable them to calibrate instrument response against known values; this capability can not be duplicated in an operating field well. Therefore, the EPA test facility is the most precise means of measuring the response and accuracy of the logging instruments used in the OA alternative mechanical integrity test.

Chemical Manufacturers Association (CMA) stated that the experience with the OA method, to date, is limited to two service companies [Atlas Wireline and Schlumberger]. Monsanto believes that the "widespread use" of the OA log ". . . may not in fact reflect a 'widely used' method, but rather reflect aggressive salesmanship by the firms." EPA stands by its original statements as to the use of the OA log by the industry. Over 300 wells have been logged during the past 3 years. All of these logs were run at company request. Logging service companies billed the companies for each log. To EPA's knowledge, none of the wells were logged for free as a means of demonstrating the technology to an uncertain or unwilling client. EPA records indicate that between March 1989 and April 1991 seventeen chemical producing and/or waste management companies operating Class I wells ran 36 oxygen activation logs. In some cases duplicate logs were run in the same well; however, these figures do corroborate the fact that companies, other than petroleum producing companies, have run the OA log and that there is some level of experience available to allow evaluation of the use of this logging technique. Furthermore, even if CMA's and Monsanto's contentions were correct and the field application of the OA method were the result of aggressive marketing, this activity would not affect EPA's conclusion that the accuracy and performance of the OA methodology has been adequately demonstrated.

CMA also commented that ". . . it has proven difficult to distinguish between flow inside the casing and outside the casing . . . [and that] this inability to distinguish flows will undercut the results of the test, especially as it is applied to more complex well configurations with testing [sic? (probably should read "tubing")] and multiple casings." EPA contends that certain flows can be readily identified as being either inside or outside the casing by analyzing the gamma ray count rates and/or timing spectrum while running the log. In some cases the location of the flow can be determined by reconfiguring the instrument to read flow in the opposite direction and thereby eliminate the flow signal from the flow occurring in the known direction. For example, oscillating flows caused by pressure changes in a well under static conditions with open perforations can be easily identified by the wireline operating engineer. Flows that may present a significant identification problem are very low flow rates that can be related to density currents or temperature induced diffusion. These cases would require access to other logging data to help determine the exact location of the flow. EPA would further note that two of the other approved alternative testing procedures (temperature and acoustic logs) are prone to providing results that are subject to a great deal of interpretation and often require running of additional tests to verify the "most probable" interpretation. In short, EPA believes that no log can always provide totally accurate and unambiguous results. The OA log does represent the latest state-of-the-art technology and has proven itself to be at least as reliable as some of the older technologies that can produce considerably more subjective results.

Another commenter stated that borehole irregularities (i.e., holes that are not perfectly to gauge) and geometric configuration of channels in the cement make the interpretation of fluid flow using nuclear techniques very difficult. EPA agrees that, on an overall basis, this observation is basically correct. However, the use of pulsed neutron technology to detect and differentiate between salt water and hydrocarbons has been proven (and accepted) for over 25 years. Modification of this technology to show fluid flow is a more recent development, but is based upon demonstrated research results. The geometric cross-section of a flow channel located behind the casing would make the determination of the volume of water questionable, but would not rule out determining the velocity of the fluid movement. In essence, a stream of "activated" water molecules passing by the gamma ray detectors will give off a characteristic signal. Interpreting what volume of water is flowing through the channel is not a prerequisite to establishing that fluid flow is occurring. In using the OA method, EPA is only concerned with establishing that fluid movement is occurring between formations and USDWs. The OA instrument has proven that it can repeatedly and accurately measure very low flow velocities.

One commenter (Envirocorp) challenged the documentation on the physical performance of the Atlas Wireline "Hydrolog". Envirocorp provided its analysis of documented test results from the Atlas Wireline technical manual on OA logging and posed several questions relating to repeatability of the measurements. EPA reviewed the submitted attachments and consulted with the Atlas Wireline about the actual instrument performance data and the interpretation of those data that were provided by Envirocorp. Based upon information submitted by both parties, EPA believes that Envirocorp's concerns about the reduction in background count rates reflected in the test results is unwarranted. The phenomenon of a reduced count rate during logging and the possible need to recalibrate the instrument were anticipated prior to running the test. The overriding aspect of the test results is the fact that the controlled, measured water flow rates were consistently and accurately detected by the instrument.

Envirocorp also asserted that test data presented on page III.36 of the *Atlas Wireline Services Oxygen Activation Logging: Hydrolog Service Technical Manual (March 1988)* showed that the absolute values of the recorded counts/second are too close to the calculated statistical standard deviation to be meaningful and that the readings tend to exhibit non-statistical drift over time. EPA notes, however, that an explanation of instrument response and the implications of the calculated standard deviation and "drift" is provided by Atlas Wireline on page III.26 of the same manual. EPA's independent report on this particular test stated that "* * * fluid movement was detected for the 0.105 gpm flow rate, but it [the detected fluid movement] was probably the column of water in the tubing moving toward static equilibrium conditions since at this extremely low flow [rate] the fluid level in the tubing could not be maintained." This scenario would be classified as a "no flow" situation. Thus, the possible anomaly identified by Envirocorp did not lead EPA to misinterpret the results of this test.

EPA also wishes to state that it is not aware of any data showing a correlation between water velocity and formation

capture cross-section. As stated above, for the purpose of establishing mechanical integrity, EPA is concerned only with flow/no flow determinations. Velocity calculations do not have any bearing upon the significance of a flow or whether a USDW is in danger; the fact that any fluid is moving toward or into a USDW is the major concern.

Finally, Envirocorp's contention that EPA has contradictory OA log information about a well that exhibited simultaneous upward and downward flow in the casing—borehole annulus (suggesting that the OA did not perform properly in each documented test, as EPA claims) is incorrect. The data on the well in question did *indicate* flow in both directions; however, analysis of well bore conditions clearly showed that seemingly contradictory signal response was due to poorly mixed brine/gel that was left in the casing/tubing annulus. There was no misrepresentation of OA instrument capabilities. This example merely reinforces EPA's previously stated contention that the person analyzing the OA log data must know all of the geological and operating conditions of the well to accurately assess the data. This is true for the use of *any* test methodology that employs indirect measurement techniques.

*B. Health & Safety Concerns*

One commenter raised a safety issue that had never been discussed during the evaluation of the instrument performance. This commenter contends that the pulsed neutron (radioactive) source in the instrument could activate the iron in the steel tubing string to create manganese 56 ($Mn^{56}$), a radioactive isotope that gives off gamma rays. The isotope has a half-life of 2.6 hours. If a workover crew were to pull the tubing string during the 2.6 hour period after "activation", the commenter believes that the personnel could be exposed to a radiation hazard. To address this concern, EPA consulted with the manufacturers of the two commercial OA logging instruments (Atlas Wireline and Schlumberger). Both companies stated that the danger of exposure to excessive radioactivity for logging or workover personnel is virtually non-existent. All instruments are routinely checked in the service company shop by turning on the pulsed neutron generator in a shielded test pit and running the generator for at least 20 minutes. Immediately after the neutron source is turned off scintillometer readings are taken on the surface of the metal instrument housing and at a distance of 1 foot from the neutron generator. The maximum radiation readings ever measured were 0.65 millirems on the instrument's surface and 0.03 millirems in the air at a distance of 1 foot from the source. Nuclear Regulatory Commission regulations governing the use of radioactive sources for geophysical logging instruments permit the use of unshielded sources that produce continuous radiation that is $\leq 2.0$ millirems above naturally-occurring background radiation levels. See 10 CFR Part 39. The OA neutron generators comply with all Nuclear Regulatory Commission specifications and are completely safe for the use intended. The source is not strong enough to "activate" the iron in a string of steel tubing and change any appreciable mass of iron into the radioactive isotope of manganese. EPA believes that the oxygen activation method represents no significant health hazard to either the logging service company personnel or well operating personnel.

*C. Economic and Policy Issues*

A majority of the commenters were concerned that the EPA had not taken into account the increased costs (beyond those costs associated with the current alternative methodologies) of the OA log and the danger that this log would become a "* * * preferred testing method that will be required by Underground Injection Control (UIC) program directors." EPA is sensitive to cost considerations and for that reason wishes to again state, unequivocally, that the OA log is only one of several alternative testing procedures that are all equally capable of providing proof of mechanical integrity.

EPA believes that many commenters have misinterpreted EPA's intent in stating in the proposed approval that the cost of the test has no bearing on approval of the OA log. EPA merely clarified its position that approval of the OA log as an authorized test procedure is based upon the physical performance and accuracy of the methodology as specified in 40 CFR 146.8 (d). Cost, by itself, is no reason for either accepting or rejecting the method as an alternative mechanical integrity testing method.

EPA believes that the operators and UIC Directors should discuss the requirements for running MITs for specific wells and determine what are the most cost-effective means by which both parties can meet their obligations. The OA log is neither a unique nor mandatory methodology for demonstrating mechanical integrity of underground injection wells and EPA is not advocating its exclusive use, but simply accepting its validity. Nevertheless, the ultimate discretion and authority for specifying MIT procedures that will ensure safeguarding USDWs remains with the appropriate UIC Director.

*D. Regulatory Conflicts*

One commenter (CMA) observed that "* * * by stating that on OA test should be run 'at some point between' the base of each USDW and the confining zone, the preamble [to the proposed approval] suggests that a flow indication in formations that have no regulatory significance would indicate a lack of mechanical integrity." EPA believes the commenter misunderstood EPA's intent. EPA's purpose in requiring this operational procedure is to provide a statistical check on instrument accuracy by taking a reading that is essentially opposite a portion of the borehole that should be totally uninfluenced by physical conditions adjacent to the confining zone or the USDW. Any indication of flow would only require that additional readings opposite the confining and/or USDWs (depending upon the direction of the flow) be taken. Repeat readings indicating a "no flow" situation would be regarded as proof that the well exhibits mechanical integrity.

*E. Test Procedures*

API contends that "* * * flow velocities are meaningless in the determination of the presence or absence of significant flows" and that the conditions stipulating that the measured velocities must be $\geq 3$ ft/minute are irrelevant. EPA agrees, in part, with this statement. As stated above, EPA believes the OA method need only detect the presence of flow, not its velocity. Nonetheless, EPA believes that OA logging instruments do not all provide accurate measurements at the lowest detectable flow velocities, and the EPA should allow only the use of those instruments demonstrated to work at relatively low velocities. EPA recognizes that the early models of the OA instruments were only proven to be able to accurately resolve flow velocities in excess of 3 ft/minute. Current models can accurately and repeatedly measure water flow velocities of $\geq$ 2.5 ft/minute. The procedural requirements under the section on Special Conditions are amended accordingly.

**III. Special Conditions**

*Limitations for Conducting the Oxygen Activation Method Mechanical Integrity Test*

As previously mentioned, extensive testing and evaluation of this logging technique has been conducted by the

EPA. Based upon this analysis, the following are prescribed limitations for conducting the Oxygen Activation Method mechanical integrity test:

(1) The Oxygen Activation Method has only been perfected by a limited number of commercial geophysical logging companies. Only those companies providing logging instrument capable of detecting flow velocities of at least two and one-half (2.5) feet per minute shall be employed in demonstrating mechanical integrity pursuant to 40 CFR 146.8 (a)(2). Individual UIC Directors can supply interested parties with a list of companies that provide acceptable OA logging services.

(2) Determination of injection zone isolation and/or fluid flow behind the pipe (i.e., flow that is not directly related to injection) will require that readings be taken at a minimum of three stations. Three readings lasting at least 5 minutes or a single reading taken over a 15 minute period must be taken at each stationary position. This procedure allows enough information to be gathered so that more precise results will be obtained. In some cases where results are inconclusive, additional readings over longer time periods may be required by the UIC Director. If the repeat measurements are identical or within the normal range of statistical error for the instrument then the measurement shall be accepted as accurate and valid.

(3) Demonstration of injection zone isolation also will require that the three stations be located far enough above the top of the injection zone (at least 10 feet) that turbulence does not affect the readings. All readings should be taken with the well injecting fluid at the normal rate. The injection should be continuous with minimum rate and pressure fluctuations.

(4) Determination of flow behind the pipe will require that the stations be located at the base of each USDW, adjacent to the confining layer which isolates injection fluids from the injection zone, and at some point between the two locations.

(5) If any flow indication is observed and is proved to be behind the casing string, the well shall fail the test (i.e., it does not establish mechanical integrity pursuant to requirements stated in 40 CFR 146.8 (a)(2)].

(6) The Oxygen Activation Method shall not be used in wells with pipe diameters less than 1 11/16 inches (inside diameter).

(7) The Oxygen Activation Method shall be used only for pipe diameters up to 13⅜ inches (inside diameter).

## IV. Determination

The Oxygen Activation Method, subject to the conditions and procedures discussed in this notice, provides the necessary information to demonstrate reliably whether a well has significant fluid movement through vertical channels adjacent to the well bore.

EPA approves this test as an effective alternative mechanical integrity test in all States. Since the test has already been approved by EPA, there is good cause to make today's determination immediately effective.

Dated: January 2, 1992.

**James R. Elder,**

*Director, Office of Ground Water and Drinking Water.*

[FR Doc. 92-665 Filed 1-9-92; 8:45 am]

BILLING CODE 6560-50-M

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[ER-FRL-4091-5]

## Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared December 23, 1991 through December 27, 1991 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities AT (202) 260-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 5, 1991 (56 FR 14096).

### Draft EISs

ERP No. D-BOP-E81031-NC Rating EC2, Butner Federal Correctional Institution Complex, Construction and Operation, Durham-Granville County Line, NC.

*Summary:* EPA expressed concern regarding loss of forested upland habitat, wetlands and noise impact and recommended that these issues be addressed in the Final EIS.

ERP No. D-BPA-L08047-WA Rating EC2, Puget Sound Area Electric Reliability Plan, Power System Problems Resolution, Implementation, section 10 and 404 Permits, Columbia River Basin, Several Counties, WA.

*Summary:* EPA has rated the Draft Environmental Impact Statement (DEIS) for the Puget Sound Area Electric Reliability Plan in Washington State EC2 (Environmental Concerns—Insufficient Information). The concerns are based on the fact that the contingency actions in the preferred alternative will cause the greatest environmental consequences.

ERP No. D-COE-C36068-PR Rating EC2, Rio Grande de Arecibo Basin, Flood Control Plan, Implementation, Arecibo River, City of Arecibo, PR.

*Summary:* EPA has concerns that the proposed project has the potential for cumulative impacts to occur as a result of project implementation. Additional information about cumulative impacts and mitigation values has been requested for inclusion in the final EIS.

ERP No. D-NPS-K61185-NV Rating EC2, Lake Mead National Recreation Area, Lakeshore Road/NV-166 Reconstruction, Funding, Clark County, NV.

*Summary:* EPA expressed environmental concerns regarding potential impacts to water quality, sensitive species and biodiversity. EPA requested additional information in the FEIS on air and water quality, sensitive species and project characterization.

ERP No. D-VAD-C99008-NY Rating EC2, Albany New York Area National Cemetery Development, Construction and Operation, Sites Selection, Town of Florida, Montgomery Co., Town of Saratoga and Town of Waterford, Saratoga County, NY.

*Summary:* EPA has concerns about the proposed project because of its potential impacts to wetlands. Additional information is requested in the Final EIS to address this issue.

### Final EISs

ERP No. F-AFS-K65112-CA, Modoc National Forest, Land and Resource Management Plan, Implementation, Modoc, Lassen and Siskiyou Counties, CA.

*Summary:* Review of the Final EIS was not deemed necessary. No formal letter was sent to the agency.

ERP No. F-FHW-K40179-CA, Hollister Bypass Construction, CA-156/Hollister from Union/Mitchell Road to San Felipe Road, Funding, Possible COE Permit, San Benito County, CA.

*Summary:* Review of the Final EIS was not deemed necessary. No formal letter was sent to the agency.

ERP No. F-USN-E84000-00, EMPRESS II (Electromagnetic Pulse Radiation Environment Simulator for Ships) Operation, Gulf of Mexico and Berthing Site Selection, Mobile, AL; Gulfport, MS or Pascagoula, MS.

*Summary:* EPA feels while the record of EMP Simulator operation has not demonstrated any significant problems to date, it is not known whether voltage pulses are compatible with human or electronic systems. EPA recommends that the Navy continue to examine more

remote locations to use this simulation device.

Dated: January 7, 1992.

**William D. Dickerson,**

*Deputy Director, Office of Federal Activities.*

[FR Doc. 92-680 Filed 1-9-92; 8:45 am]

BILLING CODE 6560-50-M

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[ER-FRL-4091-4]

## Environmental Impact Statements; Availability

*Responsible Agency:* Office of Federal Activities, General Information (202) 260-5073 or (202) 260-5075.

Availability of Environmental Impact Statements Filed December 30, 1991 Through January 3, 1992 Pursuant to 40 CFR 1506.9.

EIS No. 910455, DRAFT EIS, COE, ND, Lake Oahe Bridge Construction, midway between Bismarck, ND and Mobridge, SD, Funding, Emmons and Sioux Counties, ND, Due: February 24, 1992, Contact: Candace Thomas (402) 221-4885.

EIS No. 910456, DRAFT EIS, AFS, UT, Roundy Reservoir Area Timber Sale and Road Construction, Implementation, Dixie National Forest, Aquarius Plateau, Escalante Ranger District, Garfield County, UT, Due: February 24, 1992, Contact: Kevin R. Schulkoski (801) 826-4221

EIS No. 920000, LEGISLATIVE DRAFT EIS, UAF, Strategic Arms Reduction Treaty (START), Agreement between the United States (US) and Union of Soviet Socialist Republics (USSR), Reduction and Limitation of Deployed Strategic Offensive Arms, Ratification/Nonratification, Due: February 24, 1992, Contact: Kenneth L. Reinertson (703) 695-8942.

EIS No. 920001, DRAFT EIS, BLM, MT, SD, Billings/Power River/South Dakota Resource Areas, Oil and Gas Resource Management Plan Amendment, Leasing and Development, Mile City District, MT and SD, Due: April 10, 1992, Contact: Lloyd F. Emmon (406) 657-626.

### Amended Notices

EIS No. 910403, DRAFT EIS, FHW, AR, US 67 Construction, US 67/167 to I-40 West/I-430 Interchange around the North Little Rock Metropolitan Area, Funding, Pulaski County, AR, Due: January 17, 1992, Contact: Carl G. Kraehmer (501) 324-5625. Published FR 11-15-91—Review period extended.

EIS No. 910451, DRAFT EIS, FRC, WA, ID, NV, OR, WY, CA, Northwest Natural Gas Pipeline Expansion Project, Construction and Operation, Licensing, from points in Canada and the United States to Washington, Oregon, Idaho, Wyoming, Nevada and California, WA, OR, ID, WY, NV and CA, Due: February 18, 1992, Contact: Lauren O'Donnell (202) 208-0874. Published FR 01-03-92—Title Correction.

Dated: January 7, 1992.

**William D. Dickerson,**

*Deputy Director, Office of Federal Activities.*

[FR Doc. 92-679 Filed 1-9-92; 8:45 am]

BILLING CODE 6560-50-M

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[FRL-4091-8]

## Government-Owned Inventions; Available for Licensing

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of availability of inventions for licensing.

**SUMMARY:** The inventions listed below are owned by the U.S. Government and are available for licensing in the United States in accordance with 35 U.S.C. 207 and 37 CFR part 404 (1990). Pursuant to 37 CFR 404.7, the Government may grant exclusive or partially exclusive licenses on any of the inventions listed below three months after the date of this notice.

Copies of the patents and listed patent applications are available from the person indicated below. Requests for copies of patents must include the patent number and requests for copies of patent applications must include the patent application serial number. An application for a license should include the information set forth in 37 CFR 404.8, including applicant's plan for development or marketing the invention.

**DATES:** January 10, 1992.

**FOR FURTHER INFORMATION CONTACT:** Thomas Gorman, Patent Counsel, Office of General Counsel (LE-132G), U.S. Environmental Protection Agency, Washington, DC 20460, Telephone (202) 260-7510.

### Patents

*Patent 4,600,559:* Vacuum Extractor With Cryogenic Concentration and Capillary Interface; issued July 15, 1986.

*Patent 4,657,464:* Chemical Destruction of Halogenated Aliphatic Hydrocarbons; issued June 23, 1986.

*Patent 4,902,318:* Inlet Apparatus for Gas-Aerosol Sampling; issued February 20, 1990.

*Patent 5,007,404:* Woodstove for Heated Air Forced Into a Secondary Combustion Chamber and Method of Operating Same; issued April 16, 1991.

*Patent 5,021,229:* Reduction of Chlorinated Organics in the Incineration of Wastes; June 4, 1991.

*Patent 5,019,175:* Method for the Destruction of Halogenated Organic Compounds in a Contaminated Medium, May 28, 1991.

*Patent 5,039,350:* Method for the Decomposition of Halogenated Organic Compounds in a Contaminated Medium, issued August 13, 1991

*Patent 5,059,219:* Electroprecipitator With Alternating Charging and Short Collector Sections; issued October 22, 1991.

*Patent 5,064,526:* Method for the Base-Catalyzed Decomposition of Halogenated and Non-Halogenated Organic Compounds in a Contaminated Medium; issued November 12, 1991

### Patent Application

*Patent Application 07/788899:* Single Chamber Woodstove With Description of Products of Incomplete Combustion Enhanced By a Gaseous-fueled Pilot Burner; filed November 7, 1991.

**Raymond B. Ludwiszewski,**

*Acting Assistance Administrator and General Counsel.*

[FR Doc. 92-667 Filed 1-9-92; 8:45 am]

BILLING CODE 6560-50-M

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[FRL-4092-1]

## Open Meeting on January 27 & 28, 1992 of the Chemical Accident Prevention Subcommittee of the Environmental Measurements and Chemical Accident Prevention Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT)

Under Public Law 92463 (The Federal Advisory Committee Act), EPA gives notice of the meeting of the Chemical Accident Prevention Subcommittee of the Environmental Measurements and Chemical Accident Prevention (EM/CAP) Committee. The EM/CAP Committee is a standing committee of the National Advisory Council for Environmental Policy and Technology (NACEPT), an advisory committee to the Administrator of the EPA. The meeting will convene January 27, from 12 noon to 5 p.m. and January 28 from 9 a.m. to 5 p.m. at Delta Research Corp., 1501 Wilson Boulevard, suite 1200, Arlington, Virginia.

The subjects for discussion will be a draft report on methods of measuring success in chemical accident prevention, and draft principles for chemical accident prevention. Copies of both will be available at the meeting. The subcommittee's two working groups, the Problem Definition/Measurements Working Group and the Management Practices/Communication Working

Group, will meet in a short break-out session.

The meeting will be open to the public. Additional information may be obtained from David Graham at (202) 260-9743, or by written request sent by fax (202) 260-3882.

Dated: December 20, 1991.

**Abby J. Pirnie,**

*NACEPT Designated Federal Official.*

[FR Doc. 92-668 Filed 1-9-92; 8:45 am]

BILLING CODE 6560-50-M

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

**[FRL-4092-2]**

### Privacy Act of 1974; Systems of Records

**ACTION:** Notice of deletion of systems of records and proposed new system of records.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to establish a new system of records, "EPA Travel, Other Accounts Payable and Accounts Receivable Files." EPA is also deleting two existing EPA systems of records: "Travel Voucher, Advance Cards and Payee File System (EPA-7)," and "Accounts Receivable Module (EPA-25)." Records from the deleted systems will become part of the new system of records. Additionally, this new system will contain accounts payable files.

**EFFECTIVE DATE:** The proposed new system of records will be effective, without further notice, 60 days from the date of **Federal Register** publication, (March 10, 1992), unless comments are received which result in a contrary determination.

**ADDRESSES:** Comments should be addressed to: Director, Financial Management Division, (PM-226F), EPA, 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Sallyanne Harper, Director, Financial Management Division (PM-226F), EPA, 401 M Street, SW., Washington, DC 20460. Telephone: (202) 260-5097.

**SUPPLEMENTARY INFORMATION:** Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), EPA previously published in the **Federal Register** notices of two systems of records: "EPA-7, Travel Voucher Folders, Advance Cards and Payee Files," which was last published in the **Federal Register** on January 25, 1978 (43 FR 3502), and "EPA-25, Accounts Receivable Module," which was last published in the **Federal Register** on July 26, 1989 (54 FR 3108). These systems are being deleted because records included in the systems will be consolidated in a new Privacy Act system of records also being published this date. Accordingly, this notice formally deletes systems of records EPA-7 and EPA-25.

EPA is also proposing to establish a new system of records, "EPA Travel, Other Accounts Payable and Accounts Receivable Files." This new system of records is primarily an automated information system which includes all records related to the Agency's financial and budgetary responsibilities. It consists of an accounts receivable module containing all records in the deleted EPA-25 system notice, a travel module containing all records from the deleted EPA-7 system notice, and a new accounts payable module. This new system of records is being established to provide a more efficient and accurate method of recording and tracking all monies owed to EPA and all monies owed by EPA for authorized travel and other services performed for the Agency. Records in this system will also be used to assist EPA in collecting debts owed the Agency pursuant to the Debt Collection Act of 1982 (Pub. L. 97-365).

Proposed routine uses for this system of records include disclosures of names, addresses, and Social Security Numbers of individuals and information related to their debts for debt collection purposes. These disclosures are compatible with the purpose for which the records are collected because they are either specifically authorized by the Debt Collection Act or are consistent with and directly related to the purposes of the Act. Other proposed routine uses for this system of records are compatible with the purposes for which the information in this system is collected because they are appropriate and necessary to carry out EPA's financial management responsibilities.

In accordance with 5 U.S.C. 552a(r), EPA has provided a report on this system of records to the Office of Management and Budget and the Congress.

Dated: November 29, 1991.

**Edward Hanley,**

*Acting Assistant Administrator for Administration and Resources Management.*

**EPA-29**

**SYSTEM NAME:**

EPA Travel, Other Accounts Payable and Accounts Receivable Files EPA/FMD.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

All EPA Servicing Finance Offices. These are:

Headquarters—401 M Street, SW, Washington, D.C. 20460
Region 1—John F. Kennedy Bldg. R2203, Boston, MA 02203
Region 2—26 Federal Plaza, New York, NY 10278
Region 3—841 Chestnut Street, Philadelphia, PA 19107
Region 4—345 Courtland Street, NE, Atlanta, GA 30365
Region 5—230 South Dearborn Street, Chicago, IL 60604
Region 6—1445 Ross Avenue, Suite 1200, Dallas, TX 75202-2733
Region 7—726 Minnesota Avenue, Kansas City, KS 66101
Region 8—999 18th Street, Suite 500, Denver, CO 80202-2405
Region 9—75 Hawthorne Street, San Francisco, CA 94105
Region 10—1200 6th Avenue, Seattle, WA 98101
Cincinnati Financial Office—26 West Martin Luther King Dr., Cincinnati, OH 45268
Las Vegas Financial Office—P.O. Box 98515, Las Vegas, NV 89193-8515
Research Triangle Park, North Carolina (MD-20), 27711

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who owe monies to and individuals who are owed monies from the Environmental Protection Agency (EPA) are covered by the system. This includes, but is not limited to, monies owed to EPA for refunds, penalties, travel advances, Interagency Agreements, or Freedom of Information Requests. This system also contains information on corporations and other entities who are in debt to EPA. Records on the corporations and other entities are not subject to the Privacy Act. This system also includes monies owed by EPA to Agency employees, consultants, private citizens and others who travel or perform other services for EPA.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system of records is composed of an accounts receivable module and travel and other accounts payable modules. The system contains personal identifying information such as names, addresses, and Social Security numbers of persons indebted to or owed money by EPA. The accounts receivable module contains information about the nature of the debt or claim, the amount owed, the history status of the debt, and information which relates to and documents efforts to collect debts owed the Agency. The travel and other

accounts payable modules contain information about the travel authorization; travel vouchers, which support the claim for reimbursement to the traveler; travel advance authorizations, which provide fund advances to pay travel expenses incurred in the performance of official government business; and, finally, itemized invoices for other services performed for EPA.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

31 U.S.C. 3511–3513; 5 U.S.C. 5514; 31 U.S.C. 3702; 31 U.S.C. 3711 et seq; 44 U.S.C. 3101; Executive Order 9397.

**PURPOSE:**

Records in the accounts receivable module will be used primarily to create a record of, and to track, all accounts receivable and to assist EPA in collecting debts owed the Agency. Records in the travel and other accounts payable modules will be used primarily to create a record of and to track all monies owed by EPA for authorized travel and for other services performed for EPA.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Information in this system may be disclosed for routine uses as follows:

1. To a Member of Congress or a congressional office in response to an inquiry from that Member or office made at the request of the individual to whom the record pertains.

2. To EPA contractors, grantees or volunteers who have been engaged to assist EPA in the performance of a contract, service, grant, cooperative agreement or other activity related to this system of records and who need to have access to the records in order to perform the activity. Recipients are required to maintain records in the system in accordance with the requirements of the Privacy Act.

3. To union representatives when relevant and necessary to their duties as exclusive bargaining agents under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

4. To a Federal agency which has requested information relevant to its decision in connection with the hiring or retention of an employee; the reporting of an investigation on an employee; the letting of a contract; or the issuance of a security clearance, license, grant, or other benefit.

5. To a Federal, State or local agency where necessary to enable EPA to obtain information relevant to an EPA decision concerning the hiring or retention of an employee; the letting of a contract, or the issuance of a security clearance, license, grant, or other benefit.

6. To an appropriate Federal, State, local or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation or order, where there is an indication of a violation or potential violation of the statute, rule, regulation or order and the information disclosed is relevant to the matter.

7. To the Department of Justice to the extent that each disclosure is compatible with the purpose for which the record was collected and is relevant and necessary to litigation or anticipated litigation in which one of the following is a party or has an interest: (a) EPA or any of its components, (b) an EPA employee in his or her official capacity, (c) an EPA employee in his or her individual capacity where the Department of Justice is representing or considering representation of the employee, or (d) the United States where EPA determines that the litigation is likely to affect the Agency.

8. In a proceeding before a court, other adjudicative body or grand jury, or in an administrative or regulatory proceeding, to the extent that each disclosure is compatible with the purpose for which the records were collected and is relevant and necessary to the proceeding in which one of the following is a party or has an interest: (a) EPA or any of its components, (b) an EPA employee in his or her official capacity, (c) an EPA employee in his or her individual capacity where the Department of Justice is representing or considering representation of the employee, or (d) the United States where EPA determines that the litigation is likely to affect the Agency. Such disclosures include, but are not limited to, those made in the course of presenting evidence, conducting settlement negotiations, and responding to subpoenas and requests for discovery.

9. To representatives of the General Services Administration and the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

10. To the General Accounting Office, Office of Management and Budget, and Department of Treasury for the purposes of carrying out EPA's financial management responsibilities.

11. To provide information as necessary to other Federal, State, local and foreign agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals (in that event, EPA will comply with the Computer Matching and Privacy Protection Act of 1988 and appropriate Office of Management and Budget guidelines).

12. The following disclosures of information in this system may be made in order to help collect debts owed the EPA.

a. To provide information to the Internal Revenue Service in order to obtain taxpayer mailing addresses to locate such taxpayers for the purposes of collecting debts owed the EPA.

b. To provide taxpayer mailing addresses obtained from the IRS to agents of EPA in order to locate the taxpayer for debt collection purposes. The Debt Collection Act of 1982 prohibits the disclosure of such mailing addresses to consumer reporting agencies except for the purpose of having such agencies prepare reports on the taxpayer for use by Federal agencies. Accordingly, EPA will disclose this information to consumer reporting agencies only to obtain credit reports to help collect debts owed the EPA.

c. To provide debtor information to consumer reporting agencies in order to obtain credit reports for use by EPA for debt collection purposes.

d. To provide debtor information to other Federal agencies to effect salary and administrative offsets.

e. To provide debtor information to debt collection agencies under contract to EPA to help collect debts owed EPA. Such agencies will be required to comply with the Privacy Act and their agents will be made subject to the criminal penalty provisions of the Act.

f. To provide debtor information to the Justice Department for litigation or further administrative action in connection with debt collection.

g. To provide debtor information to the Internal Revenue Service for the purpose of reporting discharged debts declared uncollectible as a result of defaulted obligations.

Note: The term "debtor information" as used in the routine uses above is limited to the individual's name, address, social security number, and other information necessary to identify the individual; the amount, status and history of the claim; and the agency or program under which the claim arose.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Pursuant to 5 U.S.C. 552a(b)(12), disclosure may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

**POLICIES AND PROCEDURES FOR STORING, RETRIEVING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Tapes, disks, printouts, and other hard copies: Paper and disk records maintained by each Servicing Finance Office (located in 14 offices nationwide). Computer tapes and disks maintained in Research Triangle Park—National Computer Center, NC.

**RETRIEVABILITY:**

Accounts receivable module records are indexed by account receivable control number (a number assigned to each "incoming" account receivable). Individual records can be accessed by using a cross reference table which links accounts receivable control numbers with debtors names and associated debtor information. Travel and other accounts payable modules records are retrievable by name and social security number.

**SAFEGUARDS:**

Records are accessible only to authorized EPA or contractor personnel. For automated records, only authorized personnel with proper passwords may access records. Manual records and computer terminals are maintained in offices which are locked during nonduty hours.

**RETENTION AND DISPOSAL:**

Manual records are maintained until the indebtness is paid to EPA, or payment is made by EPA, at which time they are disposed of in a manner which ensures confidentiality of the information. Automated records are purged annually for completed activity. Ultimately, all records are disposed of in a manner consistent with EPA Records Control Schedules.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Financial Management Division, (PM-226F), EPA, 401 M Street, SW., Washington, DC 20460.

**NOTIFICATION PROCEDURES:**

Current EPA employees who wish to determine whether this system of records contains information on them may do so by contacting the appropriate Agency Servicing Finance Office in person. Employees must present their photo identification passes to verify identity. EPA employees may, and all other individuals must, submit their inquiries in writing to the System Manager at the address listed above. Written requests should be notarized and should contain the requester's full name, current address, telephone number, and Social Security Number (SSN). The SSN will be used only for identification purposes. The System Manager may require additional information.

**RECORD ACCESS PROCEDURES:**

Current EPA employees and others who wish to obtain a copy of a record pertaining to them should follow the Notification Procedure described above. In addition, the records being sought must be specified.

**CONTESTING RECORD PROCEDURES:**

Persons wishing to request a correction or amendment of a record pertaining to them should follow the Notification Procedure described above. In addition, they should identify the record which they wish corrected and the corrective action sought, and provide supporting justification for the correction.

**RECORD SOURCE CATEGORIES:**

Individuals covered by the system, supervisors, consumer reporting agencies, debt collection agencies, the Department of the Treasury and other Federal agencies.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

[FR Doc. 92-669 Filed 1-9-92; 8:45 am]

BILLING CODE 6560-50

## FEDERAL MARITIME COMMISSION

### Port of New Orleans et. al., Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

*Agreement No.:* 224-000015-001.

*Title:* Port of New Orleans/ Continental Grain Company Lease Agreement.

*Parties:* Port of New Orleans ("Port"), Continental Grain Company ("CGC").

*Synopsis:* This Agreement, filed December 31, 1991, provides that, upon stated conditions, The Port consents to CGC mortgaging or assigning its right, title and interest under the agreement as security for performance of its obligations in connection with the sale and lease of grain elevator facilities associated with the terminal facilities at Westwego, Louisiana.

*Agreement No.:* 224-200245-001.

*Title:* Port of Seattle/British Columbia Stena Line, Ltd. Lease Agreement.

*Parties:* Port of Seattle, British Columbia Stena Line, Ltd.

*Synopsis:* The Agreement, filed December 30, 1991, provides for termination of the Basic Lease. Termination to become effective February 5, 1992.

Dated: January 6, 1992.

By Order of the Federal Maritime Commission.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 92-577 Filed 1-9-92; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Associated Banc-Corp, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 3, 1992.

**A. Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

*1. Associated Banc-Corp*, Green Bay, Wisconsin; to merge with Northeast Wisconsin Financial Services, Inc., Sturgeon Bay, Wisconsin, and thereby indirectly acquire First National Bank of Sturgeon Bay, Sturgeon Bay, Wisconsin.

*2. Dixon Bancshares, Inc.*, Rolfe, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of Rolfe State Bank, Rolfe, Iowa, and 63.85 percent of the voting shares of Citizens State Bank, Sheldon, Iowa.

**B. Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

*1. Minnesota-Wisconsin Bancshares, Inc.*, Newport, Minnesota; to merge with MidAmerica Bancorporation, Inc., Newport, Minnesota, and thereby indirectly acquire MidAmerica Bank Newport, Newport, Minnesota, and MidAmerica Bank, N.A., Roseville, Minnesota.

**C. Federal Reserve Bank of Kansas City** (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

*1. C.S. Bancshares, Inc.*, Chillicothe, Missouri; to acquire 100 percent of the voting shares of Alma Bancshares Corporation, Concordia, Missouri, and thereby indirectly acquire Alma Bank of Concordia, Concordia, Missouri.

*2. Great Western Securities, Inc.*, Omaha, Nebraska; to acquire 100 percent of the voting shares of The Bank of Bellevue, Bellevue, Nebraska.

*3. North Platte Corporation*, Torrington, Wyoming; to acquire 100 percent of the voting shares of Worland Holding Company, Worland, Wyoming, and thereby indirectly acquire First National Bank of Worland, Worland, Wyoming.

Board of Governors of the Federal Reserve System, January 6, 1992.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 92-581 Filed 1-9-92; 8:45 am]

BILLING CODE 6210-01-F

## Lee R. (Sr.) and Katherine M. Anderson, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 31, 1992.

**A. Federal Reserve Bank of Kansas City** (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

*1. Lee R. (Sr.) and Katherine M. Anderson*, Minneapolis, Minnesota; to acquire an additional 8.5 percent of the voting shares of Rocky Mountain Bankshares, Inc., Aspen, Colorado, for a total of 33 percent, and thereby indirectly acquire The Bank of Aspen, Aspen, Colorado.

*2. Kim M. and Linda S. Ricketts, JTWROS*, Salisbury, Missouri; to acquire an additional 8.75 percent of the voting shares of RMB Bancshares, Inc., Marceline, Missouri, for a total of 28.75 percent, and thereby indirectly acquire Regional Missouri Bank, Marceline, Missouri.

**B. Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

*1. L. Michael Ashbrook, Monroe, Louisiana*, to acquire 20.37 percent of the voting shares of LBO Bancorp, Inc., West Monroe, Louisiana, and thereby indirectly acquire Louisiana Bank of Ouachita Parish, West Monroe, Louisiana.

Board of Governors of the Federal Reserve System, January 6, 1992.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 92-580 Filed 1-9-92; 8:45 am]

BILLING CODE 6210-01-F

## National Westminster Bank, PLC, London, England; Application to Engage De Novo in Providing Investment Advice, Execution and Clearance of Futures Contracts and Options on Futures Contracts on Stock Indexes, and Providing Investment Advice on These Instruments

National Westminster Bank, PLC, London, England ("Applicant"), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), to acquire all of the outstanding shares of Burns Fry Futures, Inc., Chicago, Illinois ("Company"), and through Company, to engage *de novo* in the execution and clearance on major commodity exchanges of various futures contracts and options thereon as a futures commission merchant ("FCM"), and providing investment advice on these instruments. These activities would be conducted in the United States and abroad.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." This statutory test requires that two separate tests be met for an activity to be permissible for a bank holding company. First, the Board must determine that the activity is, as a general matter, "closely related to banking." Second, the Board must find in a particular case that the performance of the activity by the applicant bank holding company may reasonably be expected to produce public benefits that outweigh possible adverse effects.

Based on the guidelines established in *National Courier Association v. Board of Governors of the Federal Reserve System*, 516 F.2d 1229, 1237 (D.C. Cir. 1975), a particular activity may be found to meet the "closely related to banking" test if it is demonstrated that: (1) Banks generally have in fact provided the proposed activity; (2) banks generally provide services that are operationally or functionally similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or (3) banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. The *National Courier* guidelines are not, however, the exclusive basis for finding a proposed activity closely related to banking, and the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking.

Applicant believes that these proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto." With one exception, the Board has previously approved the execution and clearance of the stock index futures contracts and options thereon for which Applicant seeks authority, as well as the provision of related investment advice. *See* 12 CFR

225.25(b)(18), (19). *See also, e.g., The Sanwa Bank, Limited*, 77 Federal Reserve Bulletin 64 (1991); *The Hongkong and Shanghai Banking Corporation*, 76 Federal Reserve Bulletin 770 (1990); *Chemical Banking Corporation*, 76 Federal Reserve Bulletin 660 (1990); *The Long-Term Credit Bank of Japan, Limited*, 74 Federal Reserve Bulletin 573 (1988). In conducting these activities, Applicant states that Company would comply with the conditions set forth in sections 225.25(b)(18) and (19) of Regulation Y, as well as the prudential limitations established by the Board in previous orders.

Applicant also proposes that Company provide investment advice and engage in the execution and clearance on the Chicago Mercantile Exchange ("CME") of the Nikkei Stock Average futures contract and options thereon. Applicant takes the position that the proposed activities with respect to the Nikkei Stock Average futures contract and options thereon are "closely related to banking" under the *National Courier* standard. According to Applicant, the contract terms, specifications and risk management applications of futures contracts and options on futures contracts on the Nikkei Stock Average traded on the CME are functionally identical to those of other index products specifically approved by prior Board Order, including the Nikkei Stock Average futures contract traded on the Singapore International Monetary Exchange ("SIMEX").

Although Applicant acknowledges that certain differences do exist in the contracts traded on each exchange, Applicant believes that these differences merely result from the nature of trading conducted on the CME and the SIMEX, and have no impact on the nature of the products traded nor on the risk management applications of the product. For instance, the contract value of the Nikkei traded on the CME is stated in U.S. dollars, while the contract value of the Nikkei traded on the SIMEX is stated in Japanese Yen. Accordingly, Applicant contends that the proposed activities are functionally similar to those currently being conducted by banks and bank holding companies and are therefore closely related to banking.

Applicant takes the position that the proposed activities will benefit the public. Applicant believes that it will promote competition and provide added convenience to customers of Company and gains in efficiency. Moreover, Applicant believes that these benefits will outweigh any possible adverse effects of the proposed activities and that, indeed, no adverse effects are currently foreseen.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than February 5, 1992. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, January 6, 1992.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 92-582 Filed 1-9-92; 8:45 am]

BILLING CODE 6210-01-F

## Southern National Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 31, 1992.

**A. Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

*1. Southern National Corporation*, Lumberton, North Carolina; to acquire Workman's Bancorp, Inc., Mount Airy, North Carolina, and thereby engage in owning and operating a savings and loan association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 6, 1992.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 92-583 Filed 1-9-92; 8:45 am]

BILLING CODE 6210-01-F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Forms Submitted to the Office of Management and Budget for Clearance

The Administration for Children and Families will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). This collection package is being submitted for expedited review in compliance with 5 CFR 1320.18.

The information collection request submitted to OMB is a Child Support and Alimony Supplement to the U.S. Census Bureau's April 1992 Current Population Survey. Respondents: Individuals responding to the Census Bureau survey; Number of Respondents: a sample of approximately 71,000 households is included in the survey and an estimated 28,000 individuals will be asked to respond to the Child Support

and Alimony Supplement; Frequency of Response: one time only; Average Burden per Response: 2.5 minutes; Estimated Annual Burden: 1,167 hours.

*OMB Desk Clearance Officer:* Kristina Emmanuels.

Consideration will be given to comments and suggestions received within 10 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3201, 725 17th Street, NW., Washington, DC 20503.

Dated: January 7, 1992.

**Stephen R. Smith,**

*AFC Reports Clearance Officer.*

The following is a verbatim copy of the questions to be asked in the Child Support and Alimony Supplement:

April CPS Supplement (8/91)

1. Interview check item. Is this person 15+ years old with own or adopted children in HH? Yes (Ask 2); No (Go to 29)

2. Does * * * have any children under 21 years of age who have a parent living elsewhere? Yes (Ask 3); No (Go to 29)

REMINDER: Ask items 3 through 39 of the parent—if not present make telephone call-back(s)

3a. Which of your children have a (father/mother) who lives somewhere else? (I: Record only children born before 1/1/92)

Person No.

_____

_____

_____

_____

_____

3b. Interview check item. This person is currently Never Married (Go to 4); All Others

3c. Is this child from your most recent divorce/separation? Yes; No

Interviewer: Ask 4–21 About Youngest Child Listed in

4. In what state does * * *'s (father/mother) live?

Same state as you

Different state, *specify*

_____

Other, *specify*

_____

Don't know

5. Does * * *'s (father/mother) have (*Read categories and mark all that apply*) Joint legal custody?; Visitation privileges?; Neither?

6. The next question is about the amount of time or visits between * * * and (his/her) other parent. How many days did * * * spend time with (his/her) (father/mother) during 1991? [I'er: Include Days Child Lived With Other Parent]

None

_____ per day, week, month, year

7. How were child support payments for XXX first agreed to or awarded? No child support order/agreement (Skip to 10); Voluntary written agreement; Court award (Ask 8); Other.

8. Interviewer check point. Number of children listed in Q.3 is: One (Skip to 11); More than one (Ask 9)

9. Other than * * *, which children living here are covered by that child support agreement? All other children are covered by this award; or

Person # _____

Person # _____

(Skip to 11)

Person # _____

Person # _____

10. Why is * * * not covered by a child support order? Final agreement pending; Other financial agreement made; Father lives in Household; Wanted child support but: Did not pursue an award (Skip to 21); Parent unable to pay; Unable to establish paternity; Other, specify:

_____

Did not want child support

11. In what year were these payments first agreed to or awarded?

_____

12. Has the amount ever been officially changed (by the court or other agency)? Yes (ask 13); No (Skip to 14)

13. What was the year of the most recent change?

_____

14. Is health insurance now included as part of the child support agreement? Yes; No

15. During calendar year 1991, were you or (child(ren) covered by this award) Supposed to receive any child support? Yes (Ask 16); No (Skip to 17)

16. Were these payments to be received * * * (read categories) Directly from * * *'s (father/mother) in the form of cash or a check? Through a court or public agency? (Skip to 18); By some other method? (specify in notes)

17. Why were you or * * * not suppose to receive payments in 1991? Child(ren) too old; Payments not awarded or agreed to until calendar year 1992 (Skip to 21); Child(ren)'s other parent died before 1991, Other, specify:

_____

18. Did you receive these payments (read categories): Regularly; Occasionally; Seldom; Never

19. In total, how much in child support payments were you *supposed* to receive in 1991 from child support agreement for (child(ren) covered by this award)? [Currently due includes additional payments for arrerages that have been added by the courts to the current support order]

$ _____

20. How much in child support payments did you Actually receive in 1991 for (child(ren) covered by this award)?

$ _____

21. Did * * * (father/mother) provide health insurance in 1991 for * * *—[that is, was health insurance available from (him/her) regardless of whether you used it]? Yes; No

22. Interviewer check item. Are all children listed in Q.3 covered by this agreement? Yes (Skip to 25); No (Ask 23)

23. [Other than the support order which covers (youngest child and those listed in item 9)] Are any of your other children covered by a child support order? Yes (Ask 24); No (Skip to 25)

24. How many are covered by other child support awards? 1; 2; 3; 4+

25. Have you ever contacted a child support enforcement office, a department of social services, or any other state or local government agency for aid in obtaining child support? Yes (Ask 26); No (Skip to 28)

26. Did that office provide help in (read categories and mark all that apply) Locating other parents; Establishing paternity; Establishing support obligation; Obtaining collection; Obtaining health insurance; Other, (specify in notes); Or was no help provided

27. In what year did you last contact such an agency?

_____

28. In 1991, did you (read categories/mark all that apply) have Medicaid coverage?; receive food stamps?; receive public housing assistance?; receive welfare or general assistance payments?; receive AFDC or ADC payments?

29. Interviewer checkpoint. This person is currently Married (Ask 30); Widowed (Ask 30); Divorced (Skip to 31); Separated (Skip to 31); Never been married (NP)

30. Have you ever been divorced or separated? Yes (Ask 31); No (NP)

31. In what year did your (most recent) divorce/separation take place?

_____

32. What was the year of that marriage?

_____

33. Concerning your (last) divorce/separation, were alimony or maintenance payments agreed to or awarded? Yes (Ask 34); No (Skip to 35)

34. During 1991 were you SUPPOSED to receive alimony or maintenance payments? Yes; No

35. Interviewer check item. This person is currently: Separated (Skip to 37); All others (Ask 36)

36. After your (last) divorce, did you receive a property settlement such as: (Read categories and mark all that apply): A one time cash settlement; Some other type of settlement; Or was there no settlement reached

37. At the time of your (last) separation/divorce, were you working? Yes (Ask 38); No (Skip 39)

38. Were you working 35 hours or more per week or less than 35+ hours per week: 35+; Less than 35; (End Questions)

39. Did you work at any time during the 5 years before your (last) separation? Yes; No

[FR Doc. 92–688 Filed 1–9–92; 8:45 am]

BILLING CODE 4150–04–M

## Public Health Service

## National Toxicology Program; Chemicals (5) Nominated for Toxicological Studies; Request for Comments

**SUMMARY:** The National Toxicology Program (NTP) is soliciting public comments on five chemicals nominated for toxicological studies. These comments will assist the NTP in making informed decisions about whether to

perform toxicological testing of these chemicals.

**FOR FURTHER INFORMATION CONTACT:** Dr. Victor A. Fung, Chemical Selection Coordinator, National Toxicology Program, room 2B55, Building 31, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-3511.

**SUPPLEMENTARY INFORMATION:** The NTP Chemical Evaluation Committee (CEC) is composed of representatives from the agencies participating in the NTP. AS part of the chemical selection process of the National Toxicology Program, nominated chemicals which have been reviewed by the CEC are published in the **Federal Register** with request for comment. The Purpose is to encourage active participation in the NTP Chemical evaluation process, thereby helping the NTP to make more informed decisions as to whether to select, defer or reject chemicals for toxicology study. Comments and data submitted in response to this announcement will be reviewed by NTP technical staff for use in the further evaluation of the nominated chemicals. The NTP chemical nomination and selection process is summarized in the **Federal Register** April 1981 (46 FR 21828) and also in the NTP FY 1990 Annual Plan, pages 13-15.

On October 18, 1991, the CEC met to evaluate five chemicals nominated to the NTP for toxicological studies. The following table lists the chemicals, their Chemical Abstract Service (CAS) registry numbers, and the types of toxicological studies recommended by the CEC.

| Chemical | CAS registry No. | Committee recommendations |
|---|---|---|
| 1. Fumonisin $B_1$. | 116355-83-0 | Carcinogenicity. |
| 2. Bis(tri-n-butyltin) oxide. | 56-35-0 | Defer. |
| 3. Dichloroacetic acid. | 79-43-9 | Defer. |
| 4. Trichloroacetic acid. | 76-03-9 | Defer. |
| 5. Sulfuryl fluoride. | 2699-79-8 | No testing. |

Two of the five nominated chemicals were previously tested in Salmonella by the NTP. Bis(tri-n-butyltin) oxide was found to be nonmutagenic, and dichloroacetic acid was mutagenic in this assay. A third chemical, sulfuryl fluoride, has been selected for testing in Salmonella.

The CEC deferred three chemicals: Bis(tri-n-butyltin) oxide, dichloroacetic acid (DCA) and trichloroacetic acid (TCA). Bis(tri-n-butyltin) oxide was deferred in order to retrieve information on chronic carcinogenicity studies in mice which were reported to be in progress. After the nomination of DCA and TCA for NTP carcinogenicity studies by the EPA, carcinogenicity studies of these chemicals were published. The CEC deferred DCA and TCA in order to provide the EPA with these new data and to ascertain whether the EPA requires additional toxicological studies.

Interested parties are requested to submit pertinent information on all of the nominated chemicals. The following types of data are of particular relevance:

(1) Modes of production, present production levels, and occupational exposure potential;

(2) Uses and resulting exposure levels, where known;

(3) Completed, ongoing and/or planned toxicologic testing in the private sector including detailed experimental protocols and results, in the case of completed studies;

(4) Results of toxicological studies of structurally related compounds.

Please submit all information in writing (by 30 days after date of publication) to Dr. Fung. Any submission received after the above date will be accepted and utilized if possible.

Dated: January 7, 1992.

**Kenneth Olden,**

*Director, National Toxicology Program.*

[FR Doc. 92-724 Filed 1-9-92; 8:45 am]

BILLING CODE 4140-01-M

## Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, December 27, 1991.

(Call PHS Reports Clearance Officer on 202-245-2100 for copies of package)

1. The Youth Survey for the Community Intervention Trial for Smoking Cessation (COMMIT)—0925-0354—The National Cancer Institute is conducting the Community Intervention Trial for Smoking Cessation (COMMIT), which will test whether community-based strategies can produce long-term cessation among smokers. Modification to clearance is herein requested to include the fielding of the follow-up survey to assess the impact of youth-based interventions on the attitudes, beliefs and behaviors of ninth-grade students in the study communities. Respondents: Individuals or households. Number of Respondents: 15,913; Number of Responses per Respondent: 1; Average Burden per Response: 0.67 hours; Estimated Annual burden: 10,662 hours.

2. Small Business Innovation Research Grant Applications Phase I and Phase II—0925-0195—The purpose of the Small Business Innovation Research (SBIR) Phase I and Phase II applications is to provide a vehicle by which small businesses can apply for available research funds. This information is used by PHS to determine those applicants scientifically and administratively qualified to receive public funds and those projects relevant to PHS programs. Respondents: Small businesses or organizations.

| | Number of respondents | Number of responses per respondent | Average burden per response |
|---|---|---|---|
| SBIR Phase I | 2,000 | 1 | 15 hr. |
| SBIR Phase II | 450 | 1 | 23 hr. |

Estimated Annual.....Burden 40,350 hours.

3. Grants for Nurse Anesthetist Traineeships (42 CFR part 57)—0915-0124—Trainees statements of financial need are used by grantee institutions to determine eligibility for traineeships. Grantees must maintain a record of each traineeship appointment and are required to notify a terminated trainee of the refund to the grant account of the Federal portion of any tuition owing. Respondents: Individuals or households; Non-profit institutions.

| | Number of respondents | Number of responses per respondent | Average burden per response |
|---|---|---|---|
| Reporting (57.509 (c) and 57.510 (a)). | 700 | 1 | 1 hr. |
| Notification (517.512 (b)). | 5 | 1 | .25 hr. |
| Recordkeeping (57.510 (a)). | 65 | 11 | 5 min. |

Estimated Annual Burden.....760 hours.

4. Mandatory Guidelines for Federal Workplace Drug Testing Programs—New—These guidelines promulgate

standards for certification of laboratories to conduct urine drug testing and establish scientific and technical guidelines for drug testing programs to assure compliance with the intent of Executive Order 12564. Approval is sought for a laboratory application form, a laboratory inspection form, a drug testing and control form, and the associated recordkeeping requirements. Respondents: Businesses or other for-profit; Individuals or households; Small businesses or organizations.

| | Number of respondents | Number of responses per respondent | Average burden per response |
|---|---|---|---|
| Laboratories | 176 | 9.273 | 8.904 hrs. |
| Individuals | 12,000 | 1 | 0.08 hrs. |
| Recordkeeping | 76 | 1 | 250 hrs. |

Estimated Annual Burden..... 34,533.

*OMB Desk Officer:* Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: January 6, 1992.

**Sandra K. Mahkorn,**

*Deputy Assistant Secretary for Public Health Policy*

[FR Doc. 92-645 Filed 1-9-92; 8:45 am]

BILLING CODE 4160-17-M

## Social Security Administration

### Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on December 27, 1991.

(Call Reports Clearance Officer on (301) 965-4149 for copies of package).

1. Certificate of Support—0960-0001. The information collected on the form SSA-760 is used to determine if a parent received one-half of his/her support from the wage earner. The respondents are parents applying for benefits and claiming that they received one-half of their support from the deceased wage earner.

*Number of Respondents:* 18,000.
*Frequency of Response:* 1.
*Average Burden Per Response:* 15 minutes.
*Estimated Annual Burden:* 4,500 hours.

2. Reconsideration Report For Disability Cessation—0960-0350. The information collected on the form SSA-782 is used to document an individual's request for reconsideration. The respondents are individuals who have been removed from the Social Security benefit rolls.

*Number of Respondents:* 11,500.
*Frequency of Response:* 1.
*Average Burden Per Response:* 30 minutes.
*Estimated Annual Burden:* 5,775 hours.

3. Pre-1957 Military Service-Federal Benefit Questionnaire—0960-0120. The information collected on the form SSA-2512 is used to determine whether pre-1957 military service can be used to grant gratuitous military wage credits for Social Security purposes. The respondents are individuals applying for benefits on the record of a wage earner who had pre-1957 military service.

*Number of Respondents:* 56,000.
*Frequency of Response:* 1.
*Average Burden Per Response:* 10 minutes.
*Estimated Annual Burden:* 9,333 hours.

4. Social Security Request For Employment Information—0960-0472. The information collected on the form SSA-L4112 is used to determine if wages reported to the Social Security Administration are correct. The respondents are employers who reported wages for employees who, according to SSA's records, were deceased at the time the wages were paid.

*Number of Respondents:* 50,000.
*Frequency of Response:* 1.
*Average Burden Per Response:* 10 minutes.
*Estimated Annual Burden:* 8,333 hours.

5. Quarterly Statistical Report On Recipients and Payments Under State Administered Assistance Programs or Aged, Blind and Disabled (Individuals and Couples) Recipients—0960-0130. The information collected on form SSA-9741 is used to provide statistical data on recipients and payments under the Supplemental Security Income State administered programs. The respondents are the State agencies administering supplemental payment programs.

*Number of Respondents:* 23.
*Frequency of Response:* 4.
*Average Burden Per Response:* 1 hour.
*Estimated Annual Burden:* 92 hours.
*OMB Desk Officer:* Laura Oliven.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: January 2, 1992.

**Ron Compston,**

*Social Security Administration, Reports Clearance Officer.*

[FR Doc. 92-281 Filed 1-9-92; 8:45 am]

BILLING CODE 4190-11-M

### Agreement on Social Security Between the United States and Austria; Entry Into Force

The Commissioner of Social Security gives notice that an agreement coordinating the United States (U.S.) and the Austrian social security programs entered into force on November 1, 1991. The agreement with Austria, which was signed on July 13, 1990, is similar to U.S. social security agreements already in force with twelve other countries—Belgium, Canada, France, Germany, Italy, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Agreements of this type are authorized by section 233 of the Social Security Act.

Like the other agreements, the U.S.-Austrian agreement eliminates dual social security coverage—the situation that exists when a worker from one country works in the other country and is covered under the social security systems of both countries for the same work. When dual coverage occurs, the worker or the worker's employer or both may be required to pay social security contributions to the two countries simultaneously. Under the U.S.-Austrian agreement, a worker who is sent by an employer in the U.S. to work in Austria for 5 years or less remains covered only by the U.S. system. The agreement includes additional rules that eliminate dual U.S. and Austrian coverage in other work situations.

The agreement also helps eliminate situations where workers suffer a loss of

benefit rights because they have divided their careers between the two countries. Under the agreement, workers may qualify for partial U.S. or partial Austrian benefits based on combined (totalized) work credits from both countries.

Individuals who wish to obtain copies of the agreement or want more information about its provisions may write to the Social Security Administration, Office of International Policy, Post Office Box 17741, Baltimore, MD 21235.

Dated: December 19, 1991.

**Gwendolyn S. King,**

*Commissioner of Social Security.*

[FR Doc. 92-610 Filed 1-9-92; 8:45 am]

BILLING CODE 4190-29-M

## Social Security Acquiescence Ruling 91-X(3)—Mazza v. Secretary of Health and Human Services, 903 F.2d 953 (3d Cir. 1990—Order of Effectuation in Concurrent Application Cases (Title II/ Title XVI Offset)

**AGENCY:** Social Security Administration, HHS.

**ACTION:** Notice of Social Security Acquiescence Ruling.

**SUMMARY:** In accordance with 20 CFR 422.406(b)(2) published January 11, 1990 (55 FR 1012, the Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 91-X(3).

**EFFECTIVE DATE:** January 10, 1992.

**FOR FURTHER INFORMATION CONTACT:** Ethel Hill, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 966-5044.

**SUPPLEMENTARY INFORMATION:** Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the Third Circuit. This Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after January 10, 1992 in the **Federal Register**. If we made a determination or decision on your application for benefits between May 17, 1990, the date of the Court of Appeals' decision and January 10, 1992, the effective date of this Social Security Acquiescence Ruling, you may request application of the Social Security Acquiescence Ruling to your claim if your first demonstrate, pursuant to 20 CFR 416.1485(b), that application of the Ruling could change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivor's Insurance; 93.806—Special Benefits for Disabled Coal Miners; 93.807—Supplemental Security Income)

Dated: November 19, 1991.

**Gwendolyn S. King,**

*Commissioner of Social Security.*

### Acquiescence Ruling 91-X(3)

*Mazza* v. *Secretary of Health and Human Services*, 903 F.2d 953 (3d Cir. 1990)—Order of Effectuation in Concurrent Application Cases (title II/ title XVI).

### Issue

Whether the Secretary's processing of concurrently filed claims for title II benefits and Supplemental Security Income (SSI) payments under title XVI which resulted in the title II benefits being calculated first and the potential title XVI payments being offset was permissible under section 1127 of the Social Security Act. Section 1127 (the windfall statute) provides that when a person is entitled to both SSI and retroactive Social Security benefits for one or more months, either the SSI or the retroactive Social Security benefits will be reduced by the amount of SSI payments that would not have been paid if the retroactive Social Security benefits had been paid in the months in which they were regularly due.

### Statute/Regulation/Ruling Citation

Section 1127 of the Social Security Act (42 U.S.C. 1320a-6), 20 CFR 404.408b, 416.1100, 416.1123(d).

### Circuit

Third (Delaware, New Jersey, Pennsylvania, and the Virgin Islands)

*Mazza* v. *Secretary of Health and Human Services*, 903 F.2d 953 (3d Cir. 1990).

### Applicability of Ruling

This Ruling applies to determinations or decisions at all administrative levels (i.e., initial, reconsideration, Administrative Law Judge hearing and Appeals Council review).

### Description of Case

In June 1984, Mr. Mazza filed concurrent applications for disability insurance benefits (title II benefits) and SSI payments. In February 1985, Mr. Mazza began receiving a veterans pension which caused his income to exceed the limits for SSI eligibility. Accordingly, Mr. Mazza's claim for SSI payments covered the period between June 1984 and February 1985. In a letter dated June 5, 1985, he was notified that he met the medical requirements for title II benefits. Shortly thereafter, Mr. Mazza's eligibility for title II benefits and SSI payments was determined. The Social Security Administration (SSA) calculated title II benefits first and applied an offset against potential SSI payments pursuant to the windfall statute since SSI would not have been paid if the title II benefits had been paid when due. Thus, Mr. Mazza was precluded from establishing SSI eligibility.

On July 15, 1985, SSA informed Mr. Mazza that his application for SSI was denied because of his income, including title II benefits for the period beginning June 1984. SSA notified him on August 6, 1985, that he would receive a check for title II benefits covering the months from June 1984 to July 1985.

Mr. Mazza requested reconsideration of his SSI denial. On September 20, 1985, SSA affirmed the initial determination because of his receipt of retroactive title II benefits covering the period beginning June 1984. Mr. Mazza appealed this determination. At his hearing, he pointed out that SSA's denial of SSI payments also resulted in a denial of Medicaid coverage for medical expenses incurred during his initial illness. The Administrative Law Judge found that the retroactive title II benefits raised Mr. Mazza's income above the SSI eligibility ceiling for the months in question.

Because of transcription difficulty, Mr. Mazza received a second hearing before a different Administrative Law Judge. His SSI claim was denied at both the Administrative Law Judge and Appeals

Council levels. Mr. Mazza appealed to the district court. The district court granted summary judgment in favor of the Secretary.

Mr. Mazza then appealed to the United States Court of Appeals for the Third Circuit. He conceded that he was not entitled to duplicative payments for the June 1984 to February 1985 period at issue. He also disclaimed any attempt to evade the windfall statute or to collect any additional sums. He contended that the Secretary should have first calculated the SSI payments and then deducted them from the title II payments. Had this procedure been followed, he would have received the Medicaid assistance that had been denied him.

### Holding

The United States Court of Appeals for the Third Circuit analyzed the history of the windfall statute, its amendment in 1984, and the Secretary's position in litigation concerning the 1980 statute. The court then stated:

> The [windfall] amendment was not designed to change the consistent policy of offsetting title II by SSI benefits in concurrent claims by substituting a random result dependent on which clerk was more efficient in processing claims for the respective benefits. Congress designed the amendment to close a loophole, not to alter a procedure that was working well. The legislation was to complement, not compromise, the existing practice in concurrent claims.

Because the court found that SSA's process was "not in accordance with statutory intent," the court reversed the district court and directed the district court to remand the case to SSA with directions that Mr. Mazza be found eligible for SSI, thereby protecting his eligibility for Medicaid.

### Statement as to How Mazza Differs From SSA Policy

SSA has interpreted the 1984 amendments to the windfall statute to allow the offset of either SSI or title II retroactive benefits to prevent a windfall payment. Specifically, the offset is applied to whichever benefit is paid second. The Third Circuit found this procedure to be arbitrary and held that in cases involving concurrent claims, SSI should be effectuated first.

### Explanation of How SSA Will Apply This Decision Within the Circuit

This Ruling applies only to concurrent cases involving claimants who reside in Delaware, New Jersey, Pennsylvania, or the Virgin Islands at the time of the determination or decision of any administrative level, i.e., initial, reconsideration, Administrative Law Judge hearing or Appeals Council review.

When an adjudicator has determined that an individual is eligible for a retroactive period based on concurrent applications, the SSI determination or decision shall be effectuated first. The individual's title II benefits shall be offset by the amount of SSI payments due or paid for the retroactive period.

[FR Doc. 92-612 Filed 1-9-92; 8:45 am]

BILLING CODE 4190-29-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Community Planning and Development

**[Docket No. N-91-1917; FR-2934-N-60]**

### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

**EFFECTIVE DATE:** January 10, 1992.

**ADDRESSES:** For further information, contact James Forsberg, Department of Housing and Urban Development, room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565. (These telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:** In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a notice, on a weekly basis, identifying unutilized and underutilized Federal buildings and real property determined by HUD to be suitable for use for facilities to assist the homeless. Today's notice is for the purpose of announcing that no additional properties have been determined suitable this week.

Dated: January 3, 1992.

**Paul Roitman Bardack,**

*Deputy Assistant Secretary for Economic Development.*

[FR Doc. 92-464 Filed 1-9-92; 8:45 am]

BILLING CODE 4210-29-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 764463

*Applicant:* San Diego Zoological Society, San Diego, CA.

The applicant requests a permit to import one male and two female captive born Bawean deer [*Axis* (*Cervus*) *porcinus kuhli*] from the Singapore Zoological Gardens, Singapore, for captive breeding purposes.

PRT 764231

*Applicant:* William House, Danville, CA.

The applicant requests a permit to import the sport-hunted trophy of a male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. E.V. Pringle, Bedford, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT 763826

*Applicant:* Claude Casey, Ocala, FL.

The applicant requests a permit to purchase one male and one female captive-hatched Hawaiian (=nene) goose [*Nesochen* (=*Branta*) *sandvicensis*] in interstate commerce from Mr. F.L. Wilson, Pine, Alabama, for breeding purposes.

PRT 763430

*Applicant:* James Brooks, Boring, OR.

The applicant requests a permit to import the sport-hunted trophy of a male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. P. Van der Merwe, Victoria West, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT 761891

*Applicant:* Arnold Marshall, Monroe, CT.

The applicant requests a permit to purchase a pair of captive-hatched Hawaiian (=nene) geese [*Nesochen* (=*Branta*) *sandvicensis*] from Charles Nugent, Kimbolton, Ohio, for the purpose of breeding.

PRT 761872

*Applicant:* Metro Washington Park Zoo, Portland, OR.

The applicant requests a permit to import one male captive-born L'Hoest's monkey (*Cercopithecus lhoesti*) from the Mulhouse Zoo, Mulhouse, France, for the purpose of adding an unrelated male

to an existing breeding group and for display.

PRT 763867

*Applicant:* Minnesota Zoological Garden, Apple Valley, MN.

The applicant requests a permit to import one female Siberian tiger (*Pathera tigris altaica*) from the Calgary Zoo, Alberta, Canada, for enhancement of propagation and survival of the species through captive-breeding. The tiger was born April-May 1989 in Russia and taken from the wild in December 1989.

PRT 698648

*Applicant:* Ferdinand & Anton Fercos Hantig, Manimal Magic Act, Inc., Las Vegas, NV.

The applicants request a permit to export to Bugok Myun, Changnyun-kun, Kyungnam, Korea, and reimport one male and two female tigers (*Panthera tigris*) and one spotted female and one black female leopard (*Panthera pardus*), captive-bred in the United States, for purposes of exhibition at which conservation educational material will be provided. The applicant anticipates future exports and reimports of these animals for the same purpose.

PRT 764046

*Applicant:* Joseph Diorio, Hot Springs, AR.

The applicant requests a permit to purchase one male and two female captive-born eastern indigo snakes (*Drymarchon corais, couperi*) in interstate commerce from Mr. Donald Hamper, Columbus, Ohio, for breeding purposes.

PRT 676811

*Applicant:* Regional Director—Region 2, USFWS, Albuquerque, NM.

The applicant requests renewal and amendment of their current permit to include take of various mammals, birds, amphibians, reptiles, fish, crustaceans, insects, arachnids, clams, and plants for the purpose of scientific research and enhancement of propagation or survival of the species as prescribed by Service recovery documents.

PRT 704930

*Applicant:* Regional Director—Region 6, USFWS, Denver, CO.

The applicant requests amendment of their current permit to include take of the razorback sucker (*Xyrauchen texanus*) for the purpose of scientific research and enhancement of propagation and survival of the species as prescribed by Service recovery documents.

PRT 762817

*Applicant:* Gary Johnson, Perris, CA.

The applicant requests a permit to purchase in interstate commerce one female Asian elephant (*Elephas maximus*) of wild origin from the Forest Zoo, Ashville, PA for the purpose of enhancement of propagation and survival of the species.

PRT 763823

*Applicant:* Lubee Foundation, Inc., Gainesville, FL.

The applicant requests a permit to import three male and one female captive-born Goeldi monkeys (*Callimico goeldii*); one male, three female, and two juvenile cotton-top tamarins (*Saquinus oedipus oedipus*); one make and one female golden lion tamarims (*Leontopithecus rosalia rosalia*); and four male and three female Geoffroy's tamarins (*Saquinus oedipus geoffroyii*) from Kilverstone Wildlife Park, Thetford, Norfolk, England, for breeding and research purposes to enhance the propagation and survival of the species.

PRT 764815

*Applicant:* Ringling Bros.—Barnum & Bailey, Combined Shows, Inc., Vienna, VA.

The applicant requests a permit to export three pairs of tigers (*Panthera tigris*) and one male leopard (*P. pardus*) captive-born in the U.S. to animals owned by Clubb-Chipperfield Circus, Oxfordshire, United Kingdom. Animals were born while the circus was on tour in the U.S. and are returning home with the circus where they will be used for breeding.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to, or by appointment during normal business hours (7:45–4:15) in, the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 432, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: January 7, 1992.

**Susan Jacobsen,**

*Acting Chief, Branch of Permits, Office of Management Authority.*

[FR Doc. 92–579 Filed 1–9–92; 8:45 am]

BILLING CODE 4310–55–M

## INTERSTATE COMMERCE COMMISSION

**[Docket No. AB–55 (Sub-No. 399X)]**

### CSX Transportation, Inc.—Abandonment Exemption—in Letcher County, KY

CSX Transportation, Inc. (CSX) has filed a notice of exemption under 49 CFR Part 1152 subpart F—Exempt abandonments to abandon its 2.03–mile line of railroad between milepost V.H.–270.20, V.S. 8733+92 near Duo, and milepost V.H.–272.23, V.S. 8841+18 at Carbon Glow, in Letcher County, KY

CSX has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal compliant filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on February 9, 1992 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines.* 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

banking statements under 49 CFR 1152.29 must be filed by January 21, 1992.[3] Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by January 30, 1992, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by January 15, 1992. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE, at (202)-927-6248. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: January 6, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

**Sidney L. Strickland, Jr.,**

*Secretary.*

[FR Doc. 92-608 Filed 1-9-92; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Lewis Arnold, on (202) 514-4305. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Lewis Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

New Collection

(1) Change of Address Form/Central Address File.

(2) None, Executive Office for Immigration Review.

(3) On occasion

(4) Individuals or households. This change of address form is needed to provide a uniform way for all individuals in deportation proceedings to advise the Office of the Immigration Judge of their change of address. It is mandatory under section 545 of IMMACT 1990, 8 U.S.C. 1252b.

(5) 13,000 annual responses at .04 hours per response.

(6) 520 annual burden hours.

(7) Not applicable under 3504(h).

Public comment on these items is encouraged.

Dated: January 6, 1992.

**Lewis Arnold,**

*Department Clearance Officer, Department of Justice.*

[FR Doc. 92-578 Filed 1-9-92; 8:45 am]

BILLING CODE 4410-30-M

## DEPARTMENT OF LABOR

### Employment Standards Administration; Wage and Hour Division

### Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

**Modifications to General Wage Determination Decisions**

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

*Volume I*

Mississippi:
MS91-11 (Feb. 22, 1991).... All.
MS91-12 (Feb. 22, 1991).... All.
MS91-13 (Feb. 22, 1991).... All.
MS91-14 (Feb. 22, 1991).... All.
New York
NY91-17: (Feb. 22, 1991)... p. 921, p. 924
Virginia:
VA91-30 (Feb. 22, 1991).... All.
VA91-58 (Feb. 22, 1991).... All.

*Volume II*

Iowa:
IA91-1 (Feb. 22, 1991)..... All.
Michigan:
MI91-2 (Feb. 22, 1991)..... p. 461, pp. 462-476b.
MI91-12 (Feb. 22, 1991)..... p. 543.
MI91-17 (Feb. 22, 1991)..... p. 559, pp. 560-561.
Texas:
TX91-33 (Feb. 22, 1991)..... All.
TX91-34 (Feb. 22, 1991)..... All.
TX91-37 (Feb. 22, 1991)..... All.
TX91-64 (Feb. 22, 1991)..... All.
TX91-19 (Feb. 22, 1991)..... All.

*Volume III*

None.....

**General Wage Determination Publication**

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this third day of January 1992.

**Alan L. Moss,**

*Director, Division of Wage Determinations.*

[FR Doc. 92-428 Filed 1-9-92; 8:45 am]

BILLING CODE 4510-27-M

## NUCLEAR REGULATORY COMMISSION

### Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG-8009 (which should be mentioned in all corresponence concerning this draft guide), is a proposed Revision 1 to Regulatory Guide 8.9. DG-8009 is entitled "Interpretation of Bioassay Measurements." This revision is being developed to describe a practical and consistent method acceptable to the NRC staff for estimating intake of radionuclides from bioassay measurements.

This draft guide is being issued to involve the public in the early stages of the development of a regulatory position in this area. It has not received complete staff review and does not represent an official NRC staff position.

Public comments are being solicited on the guide. Comments should be accompanied by supporting data. Written comments may be submitted to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by March 6, 1992.

Although a time limit is given for comments on this draft, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to

the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Distribution and Mail Services Section. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a)).

Dated at Rockville, Maryland, this 3rd day of January 1992.

For the Nuclear Regulatory Commission.

**Bill M. Morris,**

*Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.*

[FR Doc. 92-616 Filed 1-9-92; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50-344]**

## Portland General Electric Co.; Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Portland General Electric Company (the licensee) to withdraw its March 21, 1990 application for a proposed amendment to Facility Operating License No. NPF-1, for the Trojan Nuclear Plant, located in Columbia County, Oregon.

The proposed amendment would have revised the Trojan Technical Specification 6.5.1.2, Plant Review Board (PRB) Composition, to remove billet-specific listing of PRB membership and to replace it with discipline-specific representation.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on March 20, 1991, (56 FR 11785). However, by letter dated December 12, 1991, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated March 21, 1990, and the licensee's letter dated December 12, 1991, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Branford Price Miller Library, Portland State University, 934 SW. Harrison Street, P.O. Box 1151, Portland, Oregon 97207.

Dated at Rockville, Maryland, this 3rd day of January 1992.

For the Nuclear Regulatory Commission.

**Lawrence E. Kokajko,**

*Project Manager, Project Directorate V, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.*

[FR Doc. 92-617 Filed 1-9-92; 8:45 am]

BILLING CODE 7590-01-M

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34-30157; File No. SR-MSE-91-16]**

## Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Midwest Stock Exchange, Inc. Relating to an Increase in Annual Maintenance Fee Charges for Listed Companies

January 6, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 20, 1991, the Midwest Stock Exchange, Inc. ("MSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSE proposes to amend its listing fees, as set out in item (1) of the Exchange's Fees and Assessments Schedule, by increasing the annual maintenance fee charges for listed companies, The following is the text of the proposed changes (additions are italicized; deletions are bracketed): [1]

Midwest Stock Exchange Fees and Assessments Schedule

(1) Listing Fees

Original Listing: No change.

Annual Maintenance: Five (5) cents per thousand shares to maintain listing [$1/25,000 shares listed per year]; applicable in the year following original listing. The minimum annual maintenance fee shall be $1,000 per issue [$250]; the maximum annual maintenance fee shall be $2,2750 [$2,500].

Supplemental Listing: No change.

Miscellaneous: No change.

[1] The complete text of the Exchange's Fees and Assessments Schedule is available from the MSE's Membership and Listings Department.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The MSE's purpose for increasing its maintenance fee charges for listed companies is to reflect the costs involved in providing listing services. The Exchange believes this proposed increase is necessary to meet rising costs associated with maintaining listing services.

The proposed rule change is consistent with section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable fees and other charges among issuers using its facilities.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Comments were neither solicited nor received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the MSE. All submissions should refer to File No. SR-MSE-91-16 and should be submitted by January 31, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 92-650 Filed 1-9-92; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 34-30158; File No. SR-NYSE-91-44]**

## Self-Regulatory Organizations; Filing of Proposed Rule Change By New York Stock Exchange, Inc. Relating to Amendments to Rule 308—Acceptability Proceedings

January 6, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 16, 1991, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The proposed rule change consists of amendments to NYSE Rule 308 (Acceptability Proceedings) concerning a revision of the required composition of Acceptability Committees.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to revise the required composition of Acceptability Committees in order to provide that the acceptability of all applicants involved in such proceedings is determined by a committee of their peers.

NYSE Rule 308 was adopted in 1976 in order to establish fair procedures for considering applications (1) of prospective members or member organizations; (2) for employment or association with a member or member organization, of any member, allied member, approved person or registered representative or other person required by the Exchange Constitution or Rules thereunder to be approved by the Exchange; (3) of any prospective non-member broker-dealer accessee; and (4) for any change in status of any person that requires Exchange approval.[1]

NYSE Rule 308 serves as a vehicle for establishing the structure and function of the Acceptability Committee. Rule 308 has not been amended since its adoption in 1976.

Currently, rule 308 requires an Acceptability Committee to be comprised of three Exchange officers appointed from time to time by the Chairman of the Board of Directors of the Exchange.

The proposed rule would require that an Acceptability Committee consist of at least three persons who are members of an Acceptability Board and who are selected to serve on a committee by the Exchange's Chief Hearing Officer.[2] Acceptability Board members would be appointed annually and serve at the pleasure of the Board of Directors.

The proposed rule provides that, if the applicant is a proposed member, member organization, allied member, approved person or non-member broker-dealer accessee, the members of the Acceptability Committee must be members or allied members of the Exchange who, to the extent reasonably possible, are engaged in similar activities as the applicant proposes to engage in, or have knowledge of those activities. If the applicant is a proposed registered or non-registered employee of a member or member organization and not a member or allied member, the members of the Acceptability Committee must be registered or non-registered employees of members or member organizations who are not members or allied members and who, to the extent reasonably possible, are engaged in similar activities as the applicant proposes to engage in, or have knowledge of those activities.

If any acceptability application is related to proposed floor activities, then all persons on the Acceptability Committee must be active on the floor. Similarly, acceptability applications relating to proposed non-floor activities would require all members of the Committee to be "upstairs" persons.[3]

The proposed rule change will provide a framework for assuring fair and impartial acceptability proceedings before persons familiar with the relevant job functions of the applicant and who have the objectivity, experience and ability necessary to comprehend and evaluate the acceptability issues presented.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement of section 6(b)(7) that the rules of the exchange establish fair procedures to be used in all proceedings brought to determine whether a person shall be denied membership, barred from becoming associated with a member, or prohibited or limited with respect to access to services offered by the Exchange. In addition, the proposed rule change is consistent with the due process requirements of section 6(d)(2) of the Act.

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[1] See Securities Exchange Act Release No. 12623 (July 14, 1976), 41 FR 30407 (approving File No. SR-NYSE-76-31).

[2] See NYSE Rule 476(b).

[3] Specifically, NYSE Rule 308 would require that, with respect to an applicant to be involved in "upstairs" activities, the members of the Acceptability Committee work in the offices of a member or member organization that engages in a business involving substantial direct contact with securities customers.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the publication of this notice in the Federal Register or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-91-44 and should be submitted by January 31, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 92-652 Filed 1-9-92; 8:45 am]

BILLING CODE 8010-01-M

**[Release No. 3430156; File No. SR-PSE-91-41]**

## Self Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Equity Fees

January 6, 1992.

Pursuant to section 19(b) (1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b) (1), notice is hereby given that on December 10, 1991, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The PSE, pursuant to Rule 19b-4 of the Act, submits this rule filing to amend certain fees for equity operations.[1] The proposed fees are as follows: (italicized text denotes additions; bracketed text denotes deletions)

| P/COAST Fees | $500 per month per specialist post |
|---|---|
| Floor Broker Booth Fees: | |
| Small booth | $125 [$75] per month. |
| Large Booth | 250 [$150] per month. |
| Area Booth | 375 [$300] per month. |
| Market Data Services [Quotron]. | Pass-through charges.[1] |

[1] The PSE anticipates that the feature of the P/COAST trading system that would replace Quotron services will become operational by July, 1992. At that time, the market data services pass-through charge will replace the current Quotron pass-through charge. Presently, Quotron pass-through charges are either $275 per month or $425 per month, depending on the type of terminal and features selected by the subscriber.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The P/COAST trading system, which will be phased in during 1992, will replace the Securities Communication Order Routing and Execution System ("SCOREX") and various other services provided by outside vendors. The P/COAST system will provide major functional enhancements over SCOREX. Thus, the PSE believes that the P/COAST system will enhance the Exchange and benefit the membership. At this time, a charge of $500 per month is proposed for each specialist post to help defray the initial costs of the new system. Subsequent fee adjustments will be filed separately as the system becomes operative.

The increased charges proposed for floor broker booths reflect the increased operating costs for floor broker facilities and services. In addition, a pass-through charge for market data services will replace the current pass-through charge for Quotron.[2]

The proposed rule filing is consistent with section 6(b)(4) of the Act in that it provides an equitable allocation of reasonable dues, fees, and other charges among the members using the facilities of the PSE. In addition, the proposed rule filing is consistent with section 6(b)(5) of the Act in that it will enable the PSE to enhance its ability to facilitate transactions.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The PSE does not believe that the proposed rule change imposes a burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received Form Members, Participants or Others*

The equity fee changes were proposed by the Equities Revenue Committee, which is composed of five equity members, three of whom are members of the Board of Governors ("Board") of the PSE. The Equities Revenue Committee was established in July 1991, and met every two weeks to review and discuss fee changes. In addition, a special Board Committee composed of four Board members: One options member, one

[1] The complete text of the PSE's equity fees is available from the Exchange's Member Services Department.

[2] *See supra*, note 2.

equity member, one options/equity member and one public member, was established to discuss the fee recommendations.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–91–41 and should be submitted by January 31, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 92–651 Filed 1–9–92; 8:45 am]

BILLING CODE 8010–01–M

## Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

January 6, 1992.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

CII Financial, Inc.
Common Stock, No Par Value (File No. 7–7770)
Duty Free International, Inc.
Common Stock, $.01 Par Value (File No. 7–7771)
North American Vaccine, Inc.
Common Stock, No Par Value (File No. 7–7772)
Office Depot, Inc.
Common Stock, $.01 Par Value (File No. 7–7773)
Vitro, Sociedad Anonima
American Depositary Shares, No Par Value (File No. 7–7774)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 28, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 92–571 Filed 1–9–92; 8:45 am]

BILLING CODE 8010–01–M

## Self-Regulatory Organization; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

January 6, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Blackstone North American Government Income Trust
Common Stock, $.01 Par Value (File No. 7–7755)
Duty Free International, Inc.
Common Stock, $.01 Par Value (File No. 7–7756)
Fisher Scientific International, Inc.
Common Stock, $.01 Par Value (File No. 7–7757)
Nuveen Premier Insured Municipal Income Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–7758)
Nuveen Premier Municipal Income Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–7759)
Nuveen Texas Quality Income Municipal Fund
Common Stock, $.01 Par Value (File No. 7–7760)
Nuveen Florida Quality Income Municipal Fund
Common Stock, $.01 Par Value (File No. 7–7761)
Nuveen New Jersey Quality Income Municipal Fund
Common Stock, $.01 Par Value (File No. 7–7762)
Nuveen Michigan Quality Income Municipal Fund
Common Stock, $.01 Par Value (File No. 7–7763)
Nuveen Ohio Quality Income Municipal Fund
Common Stock, $.01 Par Value (File No. 7–7764)
Nuveen Pennsylvania Quality Income Municipal Fund
Common Stock, $.01 Par Value (File No. 7–7765)
Semiconductor Packaging Materials Co., Inc.
Common Stock, $.10 Par Value (File No. 7–7766)
Autozone, Inc.
Common Stock, $.01 Par Value (File No. 7–7767)
Unisys Corporation
Common Stock, $.01 Par Value (File No. 7–7768)
US West, Inc.
Common Stock, $1.00 Par Value (File No. 7–7769)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 28, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair

and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 92-572 Filed 1-9-92; 8:45 am]

BILLING CODE 8010-01-M

## Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

January 6, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Employee Benefit Plans, Inc.
Common Stock, $.01 Par Value (File No. 7-7746)
Michael Baker Corporation
Common Stock, $1 Par Value (File No. 7-7747)
H&Q Healthcare Investor
Shares of Beneficial Interest, $0.01 Par Value (File No. 7-7748)
Nuveen Premier Municipal Income Fund, Inc.
Common Stock, $.01 Par Value (File No. 7-7749)
Nuveen Premier Insured Municipal Income Fund, Inc.
Common Stock, $.01 Par Value (File No. 7-7750)
Blackstone North American Government Income Trust, Inc.
Common Stock, $.01 Par Value (File No. 7-7751)
Lakehead Pipeline Partner L.P.
Limited Partner Interest (File No. 7-7752)
American Strategic Income Portfolio, Inc.
Common Stock, $.01 Par Value (File No. 7-7753)
American Healthcare Management, Inc.
Common Stock, $0.01 Par Value (File No. 7-7754)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 28, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 92-573 Filed 1-9-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25449]

## Filings Under the Public Utility Holding Company Act of 1935 ("Act")

January 3, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by January 27, 1992, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

### NIPSCO Industries, Inc. (70-7896)

NIPSCO Industries, Inc. ("NIPSCO"), 5265 Hohman Ave., Hammond, Indiana 46325, an Indiana public-utility holding company exempt from registration under section 3(a)(1) of the Act pursuant to rule 2, has filed an application pursuant to sections 9(a)(2) and 10 of the Act. NIPSCO proposes to acquire all of the issued and outstanding shares of common stock of Kokomo Gas and Fuel Company ("Kokomo"), an Indiana gas utility company.

Northern Indiana Public Service Company ("Northern Indiana"), NIPSCO's wholly-owned gas and electric utility subsidiary company, provides natural gas and transportation services to approximately 593,000 customers and electric service to approximately 385,000 customers in 30 counties in northern Indiana.

Kokomo provides natural gas and transportation services to approximately 30,000 customers in five Indiana counties contiguous to counties served by Northern Indiana. As of September 30, 1991, Kokomo reported total assets of $36,103,748 and total liabilities of $11,606,066. At that date, Kokomo had issued and outstanding 475,048 shares of common stock, no par value ("Kokomo Common Stock"), which were held by 100 shareholders.

The acquisition will be accomplished pursuant to an Agreement and Plan of Reorganization ("Merger Agreement") dated November 27, 1991 among NIPSCO, Kokomo and NIPSCO Acquisition Corporation, a wholly-owned subsidiary corporation of NIPSCO created for the purpose of the merger ("Merging Subsidiary"). Pursuant to the Merger Agreement, NIPSCO will acquire all of the shares of Kokomo Common Stock for $46,690,000 in NIPSCO Common Stock and/or cash. The Merging Subsidiary will be merged with and into Kokomo, and each share of common stock, no par value, of the Merging Subsidiary which is issued and outstanding immediately prior to the Effective Date will be cancelled. Kokomo subsequently will become a wholly-owned subsidiary of NIPSCO.

### Pennsylvania Electric Company (70-7923)

Pennsylvania Electric Company ("Penelec"), 1001 Broad Street, Johnstown, Pennsylvania 15907, an electric public-utility subsidiary company of General Public Utilities Corp., a registered holding company, has filed a declaration under section 12(d) of the Act and Rule 44 thereunder.

Penelec proposes to sell certain utility assets to Advanced Cast Products, Inc. ("Advanced"), a nonassociate company, for $140,000 in cash. Penelec expects to apply the proceeds of the proposed sale to general corporate purposes. The assets consist of certain electric substation facilities and equipment located in Vernon Township, Crawford County, Pennsylvania ("Meadville Substation"). The Meadville Substation is situated on lands owned by Advanced and is operated solely to

serve the electric service needs of Advanced. The sale will enable Advanced to qualify for a more favorable electric service rate.

Penelec will sell the Meadville Substation pursuant to an October 1989 agreement ("Agreement") between Penelec and Advanced's predecessor in interest, Amcast Industrial Corporation ("Amcast"), also a nonassociate company. Amcast assigned the Agreement to Advanced on July 3, 1990.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

[FR Doc. 92-574 Filed 1-9-92; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[CGD 92-001]

### Merchant Marine Personnel Advisory Committee; Establishment

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of Establishment.

**SUMMARY:** The Secretary of Transportation has approved the establishment of the Merchant Marine Personnel Advisory Committee. The purpose of the Committee is to provide expertise on matters concerning personnel in the U.S. merchant marine, including but not limited to: Training, qualifications, certification, documentation, and fitness standards as required by the Coast Guard.

**FOR FURTHER INFORMATION CONTACT:** LCDR Scott J. Glover, Merchant Vessel Personnel Division, (202) 267-0221. This notice is issued under the authority of the Federal Advisory Committee Act, Public Law 92-463, 5 U.S.C. App. 1.

Dated: December 5, 1991.

A. Cattalini,

*Acting Chief, Office of Navigation Safety and Waterway Services.*

[FR Doc. 92-659 Filed 1-9-92; 8:45 am]

BILLING CODE 4910-14-M

### Federal Aviation Administration

### Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review, Erie International Airport, Erie, PA

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Erie Municipal Airport Authority (EMAA) for the Erie International Airport (ERI), Erie, PA, under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for ERI under Federal Aviation Regulations (FAR) part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before July 1, 1992.

**DATES:** The effective date of FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is January 3, 1992. The public comment period ends February 17, 1992.

**FOR FURTHER INFORMATION CONTACT:** Frank Squeglia, Environmental Specialist, FAA—Eastern Regional Office, Airports Division, AEA-610, Fitzgerald Federal Building, JFK International Airport, Jamaica, NY 11430, (718) 553-0902.

Comments on the proposed noise compatibility program should be submitted to the above office.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA finds that the noise exposure maps submitted for the ERI Airport are in compliance with applicable requirements of Part 150, effective January 3, 1992. Further, the FAA is reviewing a proposed noise compatibility program for the airport which will be approved or disapproved on or before July 1, 1992. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the way in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of FAR part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing non-compatible uses and for the prevention of the introduction of additional non-compatible uses.

EMAA submitted to the FAA on January 18, 1990, noise exposure maps, descriptions and other documentation which were produced during an airport noise compatibility planning study from February 1989 to October 1990. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the EMAA. The specific maps under consideration are the "Current (1989) Aircraft Noise Exposure Pattern (Exhibit 3G)" and the "Five-Year (1994) Aircraft Noise Exposure Pattern (Exhibit 3H)". These exhibits are included in the FAR part 150 Noise Compatibility Study Noise Exposure Map Documentation for ERI as addended by the September 30, 1991, insert.

The FAA has determined that these maps for ERI are in compliance with applicable requirements. This determination is effective on January 3, 1992. FAA's determination on an airport operator's noise exposure maps is limited to finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on noise exposure maps submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land-use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying

of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

The FAA formally received the noise compatibility program for ERI on January 24, 1991. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before July 1, 1992.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land-use authorities will be considered by the FAA to the extent practicable. The public comment period ends (3). Copies of the noise exposure maps, the FAA's evaluation of the maps and the proposed noise compatibility program as addended by the December 10, 1991, Response to Comments insert, are available for examination at the following locations:

Federal Aviation Administration, Office of Airport Planning & Programming, Community & Environmental Needs Division room 615B, 800 Independence Avenue, SW., Washington, DC 20591

Eastern Regional Office, FAA—Fitzgerald Federal Building, Airports Division, room 337, JFK International Airport, Jamaica, NY 11430

Harrisburg Airports District Office, FAA—3911 Hartzdale Drive, Suite 1, Camp Hill, PA 17011

Airport Director, Erie Municipal Airport Authority, Erie International Airport, PA

Questions and comments may be directed to the individual named above under the heading "**FOR FURTHER INFORMATION CONTACT**".

Issued in Jamaica, NY on January 3, 1992.

**Louis P. DeRose,**

*Manager, Airports Division Eastern Region.*

[FR Doc. 92-597 Filed 1-9-92; 8:45 am]

BILLING CODE 4910-13-M

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**[Summary Notice No. PE-91-42]**

## Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions; correction.

**SUMMARY:** This action corrects an error with reference to the comments close date to a notice published on Monday, December 23, 1991, page 66472 and in the second column. The FAA inadvertently inserted December 12, 1992. Please change the comment close date to read January 12, 1992.

**FOR FURTHER INFORMATION CONTACT:** Mr. Nick Spithas, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9683.

**Denise Castaldo,**

*Manager, Program Management Staff, AGC-10.*

[FR Doc. 92-593 Filed 1-9-92; 8:45 am]

BILLING CODE 4910-13-M

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## DEPARTMENT OF THE TREASURY

### Fiscal Service

## Surety Company Application and Renewal Fees: Increase in Fees Imposed

The Department of the Treasury, Financial Management Service, will be increasing the fees imposed and collected as referred to in 31 CFR 223.22. This increase is to cover the costs incurred by the Government for services performed relative to qualifying corporate sureties to write Federal business.

The new fees are effective December 31, 1991, and are determined in accordance with the Office of Management and Budget Circular A-25, as amended. The increase in fees is the result of a thorough analysis of costs associated with the Surety Bond Branch.

The new rate schedule is as follows:

(1) Examination of a company's application for a Certificate of Authority as an acceptable surety or as an acceptable reinsuring company on Federal bonds—$3,200.

(2) Determination of a company's continued qualification for annual renewal of its Certificate of Authority—$1,850.

(3) Examination of a company's application for recognition as an Admitted Reinsurer (except on excess risks running to the United States)—$1,100.

(4) Determination of a company's continued qualification for annual renewal of its authority as an Admitted Reinsurer—$800.

Questions concerning this notice should be directed to the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, Telephone (202) 874-6850.

Dated: December 31, 1991.

**Charles F. Schwan, III,**

*Director, Funds Management Division, Financial Management Service.*

[FR Doc. 92-566 Filed 1-9-92; 8:45 am]

BILLING CODE 4810-35-M

# Sunshine Act Meetings

Federal Register
Vol. 57, No. 7
Friday, January 10, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

**AFRICAN DEVELOPMENT FOUNDATION**

Advisory Council Meeting

**TIME:** 10:00 a.m.–3:30 p.m.

**PLACE:** African Development Foundation.

**DATE:** Tuesday, 11 February 1992.

**STATUS:** Open.

**Agenda**

10:00–10:30 Welcome/Introductions Advisory Council Chairman, Richard M. Ostor
* ADF Chairman, F. Edward Johnson, Esq.
* ADF President, Gregory Robeson Smith
* ADF Board Member, C. Payne Lucas

10:30–11:45 ADF Division Presentations
* OPFO
* OLD
* OBFA
* Public Affairs

11:45–12:00 Break

12:00–1:30 Lunch, Africare House Speaker, The Honorable Paul Simon, Senator

1:30–2:45 Discussion Groups

2:45–3:30 Closing Session

**Gregory Robeson Smith,**

*President.*

[FR Doc. 92–824 Filed 1–8–92; 3:31 pm]

BILLING CODE 6116-01-M

**FEDERAL DEPOSIT INSURANCE CORPORATION**

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Tuesday, January 7, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to the probable failure of a certain insured bank.

Recommendations concerning administrative enforcement proceedings.

Reports with respect to the Corporation's supervisory activities.

Matter relating to the Corporation's corporate activities.

Matter relating to a certain financial institution.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), Vice Chairman Andrew C. Hove, Jr., and Chairman William Taylor, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550 — 17th Street, NW., Washington, DC.

Dated: January 7, 1992.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Deputy Executive Secretary.*

[FR Doc. 92–728 Filed 1–7–92; 4:42 pm]

BILLING CODE 6714-01-M

**FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS**

**TIME AND DATE:** 10:00 a.m., Wednesday, January 15, 1992.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

**Summary Agenda:**

Because of its routine nature, no discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed amendments to Regulation CC (Availability of Funds and Collection of Checks) to implement amendments to the Expedited Funds Availability Act that were contained in the Federal Deposit Insurance Corporation Improvement Act of 1991.

2. Any items carried forward from a previously announced meeting.

**Discussion Agenda:**

Please note that no discussion items are scheduled for this meeting.

**Note.**—If the item is moved from the Summary Agenda of the Discussion Agenda, discussion of the item will be recorded. Cassettes will then be available for listening in the Board's Freedom of Information Office, and copies can be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 8, 1992.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 92–731 Filed 1–8–92; 9:29 am]

BILLING CODE 6210-01-M

**FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS**

**TIME AND DATE:** Approximately 10:15 a.m., Wednesday, January 15, 1992, following a recess at the conclusion of the open meeting.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 8, 1992.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 92–732 Filed 1–8–92; 9:29 am]

BILLING CODE 6210-01-M

**LEGAL SERVICES CORPORATION BOARD OF DIRECTORS ANNUAL MEETING**

Notice

**TIME AND DATE:** The annual meeting of the Board of Directors will be held on January 13, 1992, The meeting will commence at 10:00 a.m.[3]

[3] It is anticipated that the Legal Services Corporation Board of Directors will be recess appointed by the President of the United States this week. However, should this not o :cur, this meeting will be canceled.

**PLACE:** The Washington Court Hotel, 525 New Jersey Avenue, NW., The Ballroom Center, Washington, DC. 20001, (202) 628–2100.

**STATUS OF MEETING:** Open, except that a portion of the meeting may be closed pursuant to a majority vote of the Board of Directors, to be taken at the earliest practicable time. At the very least, the vote will be taken at the January 13, 1992 meeting. If a closed session is held subject to the aforementioned majority vote, the Board of Directors will hear and consider the report of the General Counsel on litigation to which the Corporation is a party, and will consider, in consultation with its special counsel, pending personnel actions and personnel-related rules and practices, including matters related to current investigations being undertaken by the Corporation's Office of the Inspector General. The Board of Directors will also receive and consider a report on current investigations from the Inspector General. In addition, the Board of Directors will consult with its counsel, the General Counsel and the Inspector General regarding written follow-up to a December 19, 1991 meeting with the Senate Committee on Governmental Affairs. Finally, the Board of Directors will hear and consider a report from a representative of the Corporation's insurance company related to an insurance project. The closing will be authorized by the relevant sections of the Government in the Sunshine Act (5 U.S.C. Sections 552b (c)(2), (4), (6), and (10)), and the corresponding regulation of the Legal Services Corporation (45 C.F.R. Sections 1622.5(a), (c), (e), and (h)). The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 400 Virginia Avenue, SW., Washington, DC., 20024, in its three reception areas, and will otherwise be available upon request.

**MATTERS TO BE CONSIDERED:**

**Open Session**

1. Approval of Agenda.
2. Election of Chairperson and Vice Chairperson of the Board of Directors.
3. Presentation by the Honorable John Bayly and the Honorable Frank Nebeker.
4. Approval of Minutes of December 10, 1991 Meeting.
5. Chairman's and Members' Reports.
6. President's Report.
7. Inspector General's Report.

**Closed Session** [4]

8. Consideration of Report by Inspector General on Current Investigations and Other Matters.
9. Consultation with Board's Counsel, the General Counsel and the Inspector General Regarding Written Follow-up to Meeting with Senate Committee on Governmental Affairs.
10. Consideration of Pending Personnel Actions and Personnel-Related Rules and Practices and Consultation with Board's Special Counsel.
11. Consideration of the General Counsel's Report on Pending Litigation to which the Corporation is a Party.
12. Consideration of Report on Issuance by Gary Hurst, Vice President, Corporate Insurance Management, Inc.

**Open Session (Resumed)**

13. Consideration of Provision for the Delivery of Legal Services Committee Report.
14. Consideration of Audit and Appropriations Committee Report.
15. Consideration of Office of the Inspector General Oversight Committee Report.
16. CConsideration of Operations and Regulations Committee Report.
17. Consideration of Other Business.

**CONTRACT PERSON FOR INFORMATION:** Patrica D. Batie, Executive Office, (202) 863–1839.

Dated issued: January 8, 1992.

**Patricia D. Batie,**

*Corporate Secretary.*

[FR Doc. 92–829 Filed 1-8-92; 3:18 pm]

**BILLING CODE 7050-01-M**

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**NATIONAL CREDIT UNION ADMINISTRATION**

Notice of Change in Subject of Meeting

The previously announced open Board meeting of the National Credit Union Administration (To be published in the **Federal Register**, Thursday, January 9, 1992) scheduled for 9:30 a.m. on Wednesday, January 15, 1992, will include the following additional item:

5. Agency Office Space.

The previously announced items are:

1. Approval of Minutes of Previous Open Meeting.
2. Central Liquidity Facility Report and Review of CLF Lending Rate.
3. Proposed Amendment: Part 705, NCUA's Rules and Regulations, Community Development Revolving Loan Program.
4. Proposed Amendment: Part 722, NCUA's Rules and Regulations, Appraisals.

**FOR MORE INFORMATION CONTACT:** Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

**Becky Baker,**

*Secretary of the Board.*

[FR Doc. 92–831 Filed 1–8–92; 3:19 pm]

**BILLING CODE 7535-01-M**

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**RESOLUTION TRUST CORPORATION**

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:05 p.m. on Tuesday, January 7, 1992, the Board of Directors of the Resolution Trust Corporation met in closed session to consider matters relating to the resolution of a failed thrift institution.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Vice Chairman Andrew C. Hove, Jr., concurred in by Chairman William Taylor, Director Robert L. Clarke, (Comptroller of the Currency), and Mr. Jonathan L. Fiechter, acting in the place and stead of Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b).

The meeting was held in the Board Room of the Federal Deposit Insurance Corporation Building located at 550—17th Street, NW., Washington, DC.

Dated: January 7, 1992.

Resolution Trust Corporation.

**John M. Buckley, Jr.,**

*Executive Secretary.*

[FR Doc. 92–800 Filed 1–8–92; 1:52 pm]

**BILLING CODE 6714-01-M**

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[4] It is anticipated that the executive session will conclude at approximately 1:45 p.m. The open session will reconvene immediately thereafter.

# Corrections

Federal Register
Vol. 57, No. 7
Friday, January 10, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review

*Correction*

In notice document 91-30848, appearing on page 66846, in the issue of Thursday, December 26, 1991, make the following corrections:

1. On page 66846, in the table, in the left column, under *Suspension Agreements:*, in the second line, "(A-122-504)" should read "(C-122-504)".

2. In the same table, under the same heading, in the third, fourth and fifth lines, "A" should read "C" as in the above correction.

3. In the same table, under *Countervailing Duty Proceedings:*, in all seven lines, "A" should read "C".

BILLING CODE 1505-01-D

## DEPARTMENT OF ENERGY

### Office of Fossil Energy

### Enron Gas Marketing Inc.; Application for Blanket Authorization to Import and Export Natural Gas

*Correction*

In notice document 91-26152 beginning on page 55917 in the issue of Wednesday, October 30, 1991, make the following correction:

On page 55918, in the second column, in the file line at the end of the document, "FR Doc. 91-26512" should read "FR Doc. 91-26152".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### 45 CFR Part 235

**RIN 0970-AA75**

### Aid to Families With Dependent Children

*Correction*

In rule document 91-29363 beginning on page 64195 in the issue of Monday, December 9, 1991, make the following correction:

**§ 235.112 [Corrected]**

On page 64204, in the third column, in § 235.112(b)(2), in the first line, "interned" should read "intended".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 91F-0430]**

### Ciba-Geigy Corp.; Filing of Food Additive Petition

*Correction*

In notice document 91-28753 appearing on page 61253 in the issue of Monday, December 2, 1991, make the following corrections:

1. On page 61253, in the third column, under **FOR FURTHER INFORMATION CONTACT**, in the third line, "(HFF-355)" should read "(HFF-335)".

2. On the same page, in the same column, under **SUPPLEMENTARY INFORMATION**, in the first paragraph, in the sixth line from the bottom, "addition" should read "additional".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 91N-0474]**

### Chelsea Laboratories, Inc.; Withdrawal of Approval of 10 Abbreviated New Drug Applications

*Correction*

In notice document 91-28984 beginning on page 61431 in the issue of Tuesday, December 3, 1991, make the following corrections:

On page 61432, in the first column, under **SUPPLEMENTARY INFORMATION**, in the first paragraph, in the sixth line from the bottom, "ANDA 70-764" should read "ANDA 71-764"; and in the fourth line from the bottom, "ANDA 70-911" should read "ANDA 71-911".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### Advisory Committees; Meetings

*Correction*

In notice document 91-29679 beginning on page 64792 in the issue of Thursday, December 12, 1991, make the following correction:

On page 64793, in the second column, in the first full paragraph, in the third line, "separate" should read "separable".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

### Privacy Act of 1974; Systems of Records

*Correction*

In notice document 91-30922 beginning on page 67078, in the issue of Friday, December 27, 1991, make the following correction:

On page 67078, in the first column, under **DATES:**, in the second paragraph, in the fifth line, "January 27, 1992" should read "February 25, 1992".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[OR-943-4214-10; GP2-049; OR-45401]

### Partial Termination of Proposed Withdrawal and Reservation of Lands; OR

*Correction*

In notice document 91-29168 appearing on page 63745 in the issue of Thursday, December 5, 1991, in the 3rd column, the 13th line should read "Sec. 28, lots 2 and 3, and SE¼NE¼;".

BILLING CODE 1505-01-D

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Mely Salanga, M.D., Revocation of Registration

*Correction*

In notice document 91- 29689 beginning on page 64808 in the issue of Thursday, December 12, 1991, make the following correction:

On page 64809, in the 1st column, in the 14th line, "1990" should read '1992".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

### 27 CFR Part 178

[T.D. ATF-313]

### Commerce in Firearms and Ammunition

*Correction*

In rule document 91-16947, beginning on page 32507, in the issue of Wednesday, July 17, 1991, make the following correction:

**§ 178.30 [Corrected]**

On page 32508, in the 2nd column, in § 178.30, in the 14th line, "interstate" should read "intestate".

BILLING CODE 1505-01-D

federal register

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Part II

# Department of Education

34 CFR Part 298

Federal, State, and Local Partnership for Educational Improvement; Final rule

**DEPARTMENT OF EDUCATION**

**34 CFR Part 298**

**RIN 1810-AA60**

## Federal, State, and Local Partnership for Educational Improvement

**AGENCY:** Department of Education.

**ACTION:** Final regulations.

**SUMMARY:** The Secretary amends the regulations governing chapter 2 of title I of the Elementary and Secondary Education Act of 1965, as amended. These regulations implement an amendment to chapter 2 (contained in the National Literacy Act of 1991) that authorizes training programs for teachers and school counselors to identify, particularly in the early grades, students who may be at risk of illiteracy in the adult years.

**EFFECTIVE DATE:** These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register.**

**FOR FURTHER INFORMATION CONTACT:** Lee E. Wickline, Director, School Effectiveness Division, School Improvement Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., (room 2040), Washington, DC 20202-6140. Telephone: (202) 401-1062. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

**SUPPLEMENTARY INFORMATION:** In the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, P.L. 100-297, Congress enacted chapter 2 of title I of the Elementary and Secondary Education Act of 1965, entitled "Federal, State, and Local Partnership for Educational Improvement." To make chapter 2 a vehicle for school improvement, with an "identifiable theme of improving quality and promoting innovation" (see H.R. Rep. No. 95, 100th Cong., 1st Sess. 50 (1987)), Congress identified six broad purposes for which Chapter 2 funds may be targeted: Programs for at-risk students; acquisition and use of instructional materials; schoolwide improvement and effective schools programs; training and professional development for educational personnel; programs to enhance the personal excellence of students and student achievement; and innovative projects to enhance the educational program and climate of the school.

In section 302 of the National Literacy Act of 1991, Public Law 102-73, Congress amended section 1531(b) of chapter 2 (20 U.S.C. 2941) to add a seventh purpose for which chapter 2 funds may now be targeted: Training programs to enhance the ability of teachers and school counselors to identify, particularly in the early grades, students who may be at risk of illiteracy in their adult years. Subject to the requirement to target funds on one or more of the seven areas, State and local educational agencies retain the flexibility to decide how to use their chapter 2 funds. The final regulations in this document amend § 298.12(a) of the chapter 2 regulations to incorporate this statutory change.

This statutory and regulatory change authorizes activities that can help foster the aims of AMERICA 2000, the President's strategy to help America move itself toward the six National Education Goals.

Specifically, local educational agencies that choose to use their funds for this newly authorized purpose will be working toward fulfillment of:

- Goal 2, by identifying students with reading difficulties early, thus reducing the risk that they will drop out before completing high school;
- Goal 3, by ensuring that all children are equipped with the reading skills they need to help them leave grades four, eight, and twelve having demonstrated competency in challenging subject matter; and
- Goal 5, by helping all children grow up to be literate adults who possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

### Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. Because these regulations merely incorporate a statutory change, however, public comment could have no effect. Therefore, the Secretary has determined that publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

### Regulatory Flexibility Act Certification

The Secretary certifies that these final regulations will not have a significant economic impact on a substantial number of small entities. The small entities that would be affected by these regulations are small local educational agencies (LEAs) receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the small LEAs affected because the regulations merely incorporate a statutory change and do not impose excessive burdens or require unnecessary Federal supervision.

### Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in this order.

### Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

### List of Subjects in 34 CFR Part 298

Administrative practice and procedure, Education, Elementary and Secondary Education, Grant programs-education, Private schools, Reporting and recordkeeping requirements, State administered programs.

(Catalog of Federal Domestic Assistance Number 84.151, Federal, State, and Local Partnership for Educational Improvement)

Dated: December 23, 1991.

**Lamar Alexander,**

*Secretary of Education.*

The Secretary amends part 298 of title 34 of the Code of Federal Regulations as follows:

## PART 298—FEDERAL, STATE, AND LOCAL PARTNERSHIP FOR EDUCATIONAL IMPROVEMENT

1. The authority citation for part 298 continues to read as follows:

**Authority:** 20 U.S.C. 2911-2952, 2971-2976, unless otherwise noted.

2. Section 298.12 is amended by redesignating paragraphs (a) (5) and (6) as paragraphs (a) (6) and (7), respectively, and adding a new paragraph (a)(5) to read as follows:

**§ 298.12 Targeted assistance programs.**

(a) * * *

(5) Programs of training to enhance the ability of teachers and school counselors to identify, particularly in the

early grades, students with reading and reading-related problems that place those students at risk for illiteracy in their adult years.

* * * * *

[FR Doc. 92-649 Filed 1-9-92; 8:45 am]
BILLING CODE 4000-01-M

# Reader Aids

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## LIST OF PUBLIC LAWS

**Note:** The List of Public Laws for the first session of the 102d Congress has been completed and will be resumed when bills are enacted into public law during the second session of the 102d Congress, which convenes on January 3, 1992. A cumulative list of Public Laws for the first session was published in Part II of the **Federal Register** on January 2, 1992.